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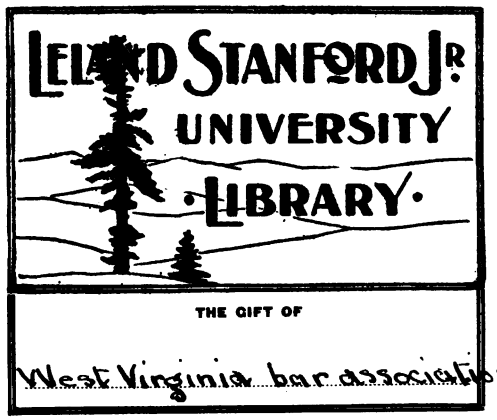
WEST VA. BAR ASSOCIATION

DECEMBER 27th and 28th, 1906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PROCEEDINGS

OF THE

Twenty-Second Annual Meeting

OF

The West Virginia Bar Association

HELD AT

Elkins, West Virginia

ON

December 27th and 28th, 1906

Edited for the Executive Council

BY

Wm. G. Peterkin, Secretary

Parkersburg, W. Va.
Press of THE ELLETSON-CARVER CO.
1907.

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OFFICERS AND COMMITTEES

1907.

PRESIDENT—J. HOP WOODS ..... Philippi

VICE-PRESIDENTS:

FIRST DISTRICT—NELSON C. HUBBARD ..... Wheeling
SECOND DISTRICT—ROBT. W. DAILEY ..... Romney
THIRD DISTRICT—C. W. OSENTON ..... Fayetteville
FOURTH DISTRICT—M. H. WILLIS ..... West Union
FIFTH DISTRICT—GEORGE POFFENBARGER .....Point Pleasant

SECRETARY—WM. G. PETERKIN,.....Parkersburg
TREASURER—CHAS. A. KREPS,.....Parkersburg

Executive Council:

W. P. WILLEY—Morgantown.
B. M. AMBLER—Parkersburg.
H. M. RUSSELL—Wheeling.
ELLIOTT NORTHCOTT—Huntington.
E. L. NUCKOLLS—Fayetteville.
J. HOP WOODS (Ex-of.)—Philippi.
W. G. PETERKIN (Ex-of.)—Parkersburg.

STANDING COMMITTEES.

Committee on Admissions.

BASIL T. BOWERS—New Martinsville.
C. M. MURPHY—Philippi.
M. M. NEELY—Fairmont.
H. B. GILKESON—Romney.
E. A. BOWERS—Elkins.

Committee on Judicial Administration and Legal Reform.

B. M. AMBLER—Parkersburg.
JOHN BASSEL—Clarksburg.
NELSON C. HUBBARD—Wheeling.
IRA E. ROBINSON—Grafton.
P. J. CROGAN—Kingwood.

Committee on Legal Education.

ST. GEO. T. BROOKE—Morgantown.
GEO. E. PRICE—Charleston.
W. W. BRANNON—Weston.
A. M. POUNDSTONE—Buckhannon.
BENJAMIN DAILEY—Moorefield.

Committee on Legal Biography.

MELVILLE PECK—Philippi.
WILLIAM MacDONALD—Keyser.
GUY R. C. ALLEN—Wheeling.
FORREST W. BROWN—Charles Town.
C. D. MERRICK—Parkersburg.

Committee on Grievances.

THOS. P. JACOBS—New Martinsville.
WM. E. HAYMOND—Sutton.
B. L. BUTCHER—Fairmont.
O. S. MARSHALL—New Cumberland.
M. H. WILLIS—West Union.

Committee on Legislation.

C. W. OSENTON—Fayetteville.
A. R. STALLINGS—Davis.
JNO. A. PRESTON—Louisburg.
WM. B. MATHEWS—Charleston.
ANDREW PRICE—Marlinton.

Committee on Banquet.

E. L. ROBINSON—New Martinsville.
S. B. HALL—New Martinsville.
F. C. CORNETT—New Martinsville.
J. W. VANDERVORT—Parkersburg.
JAS. W. EWING—Wheeling.

SPECIAL COMMITTEES.

Committee on Uniformity of Legislation.

W. W. VAN WINKLE—Parkersburg.

Committee on History of "Bench and Bar".

WM. G. PETERKIN—Parkersburg.
JNO. T. McGRAW—Grafton.
J. W. VANDERVORT—Parkersburg.
JNO. W. MASON—Fairmont.
W. B. MATHEWS—Charleston.

Delegates to American Association.

JNO. J. CONIFF—Wheeling.
W. N. MILLER—Parkersburg.
CHAS. E. HOGG—Morgantown.

FORMER PRESIDENTS
Of The West Virginia Bar Association.

JOSEPH SPRIGG,
J. J. JACOB,
B. M. AMBLER,
E. B. KNIGHT,
H. M. RUSSELL,
W. P. WILLEY,
OKEY JOHNSON,
J. D. EWING,
T. P. JACOBS,
W. P. HUBBARD,
F. W. BROWN,
P. J. CROGAN,
D. C. WESTENHAVER,
W. MOLLOHAN,
L. J. WILLIAMS,
JOHN BASSEL,
GEO. E. PRICE,
C. WOOD DAILEY,
W. W. BRANNON,
JOHN W. MASON,
JOHN W. DAVIS.

MEMBERS IN ATTENDANCE

Elkins, December 27-28, 1906.

Alexander, G. M.
Ambler, B. M.
Ambler, Mason G.
Arnold, D. H. Hill,
Allen, R. H.

Baker, W. E.
Bassel, John
Bowers, E. A.
Brannon, W. W.
Brooke, St. Geo. T.
Bunting, J. G.
Butcher, B. L.
Byrer, Harry H.

Campbell, C. W.
Coberly, Jas.
Cooper, Jno. T.
Cunningham, A. M.
Cutright, W. B.

Dailey, Benj.
Dailey, C. W.
Dailey, T. G.
Daly, A. D.
Davis, John J.
Davis, John W.
Dent, M. H.

Gaines, J. H.
Gamble, M. W.

Harding, C. W.
Harmer, Harvey W.
Hoover, B. M.
Hogg, Chas. E.
Holsberry, LeRoy V.
Hubbard, W. P.
Hughes, W. W.

Iams, F. V.
Ice, W. T., Jr.

Jacobs, Thos. P.
Johnson, E. M.

King, M. H.
Kreps, Chas. A.

Law, J. E.
Lehman, A. L.
Lehman, John L.
Lowe, Scott C.

McCamic, Chas.
McClintic, Geo. W.
McGraw, Jno. T.
McPeak, E. M.
Marshall, O. S.
Maxwell, W. B.
Maxwell, C. W.
Mason, Jno. W.
Mathews, Wm. B.
Merrick, C. D.
Morgan, E. T.
Moss, Hunter H., Jr.
Morton, E. H.
Murphy, C. M.

Neely, M. M.

Osenton, C. W.

Peck, Melville.
Peterkin, W. G.
Poundstone, A. M.
Price, Andrew.
Price, Geo. E.

Reger, Roy
Reger, Shelton L.
Robinson, Ira E.
Robinson, Jed W.

Scott, C. H.
See, Leroy
Shaw, Harry
Smith, Harvey F.
Snider, M. F.
Sommerville, S. H.
Spears, S. T.
Stallings, A. R.
Strickling, J. H.
Strieby, C. O.
Strader, Wilbur J.

Talbott, E. D.
Talbott, W. T.
Talbot, W. D.
Taylor, B. W.
Taylor, LeRoy.

Valentine, A. Jay
Vandervort, J. W.
Viquesney, J. A.

Ware, J. Blackburn.
Warder, Hugh
Wamsley, Jared L.
White, Kemble
Wilson, W. G.
Willis, M. H.
Willey, W. P.
Woddell, W. L.
Woods, Homer B.
Woods, J. Hop.

Twenty-Second Annual Meeting

OF

The West Virginia Bar Association

HELD AT

Elkins, West Virginia,

December 27th and 28th, 1906.

Reported Stenographically by John T. Harris, of Parkersburg.

FIRST DAY—MORNING SESSION.

The Association met on Thursday, December 27th, at 10 o'clock a. m., in the Opera House.

PRESIDENT JOHN W. DAVIS: The Association will come to order. The first number on the programme is the address of the President.

MR. J. L. WAMSLEY: In view of the fact that there are quite a number of the members of this Association who are not here this morning but who will arrive today, I desire to make a motion. We have five trains, I believe, that will arrive between this time and three o'clock this afternoon: Now, I know there are persons coming on each of those trains and of course they would like to hear the President's address. I therefore move that the delivery of that address be postponed until 3 o'clock in the afternoon of today and made a special order for that hour. If this motion carries we can then take up the other routine business.

MR. B. M. AMBLER: I second the motion.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The next order of business is the report of the Committee on Admissions. Is the chairman of that committee present?

MR. E. D. TALBOTT: I am the only member of the committee who is here. I have a number of names to hand in and if the Association will take them with my recommendation I will put them in. I do not know who the other members of the committee are.

PRESIDENT DAVIS: Mr. McClintic, of Charleston, is a member, and he is here.

MR. G. W. McCLINTIC: I will agree to anything Mr. Talbott recommends. He can go right ahead and make his report.

MR. E. D. TALBOTT: I will recommend then, a list I have here, in a few minutes.

MR. B. M. AMBLER: Mr. President, will it be in order to pass the report of the Committee on Admissions for the present?

PRESIDENT DAVIS: I presume such a motion would be in order.

MR. B. M. AMBLER: Then I make it.

PRESIDENT DAVIS: It has been moved and seconded that the report of the Committee on Admissions, for the present, be passed, to be taken up in order.

MR. B. M. AMBLER: When it is called up.

PRESIDENT DAVIS: At the pleasure of the chairman?

MR. B. M. AMBLER: Yes, sir.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The "Election of Members" is next in order. I presume that goes over with the report. Will there be any action under the head of the "Election of Members" or is it the pleasure of the Association to await the report of the Committee on Admissions?

MR. W. W. BRANNON: I move that the election of members be postponed until the report of the Committee on Admissions shall have been received.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The "Appointment of the Committee on Nominations" is next in order.

The Chair will appoint as the Committee on Nominations the following ex-Presidents of the Association: Messrs. W. P. Willey, John Bassel, John W. Mason, B. M. Ambler and W. W. Brannon. The gentlemen so appointed will please take notice thereof. The report of the committee will be in order this afternoon and I presume they should meet during the noon recess. The report of the Secretary is next in order.

The Secretary, Mr. W. G. Peterkin, here presented his report as follows:

REPORT OF THE SECRETARY.

To the West Virginia Bar Association:—

The Secretary has to report only the usual routine matters; —the publication and distribution of the report of the last meeting of the Association, and the necessary preparations for this meeting, together with attendance upon the meeting of the Executive Council in the interim.

During the year there have been several requests for back numbers of the reports of the Association's meetings: I have now in my custody a number of the bound volumes containing the reports of the first six meetings of the Association, together with separate pamphlet reports of several of these six meetings, also a number of the reports of the last two meetings. I would recommend that the Executive Council be authorized to fix a price upon these back reports, at which they can be sold from time to time as there is demand for them.

Not having been able to get a complete set of the reports myself I have been unable to make the index of papers and addresses read and delivered before the Association, which work I hope will be done by some future Secretary.

Respectfully submitted,

W. G. PETERKIN, Secretary.

PRESIDENT DAVIS: Gentlemen, you have heard the report of the Secretary. What will you do with it?

MR. ANDREW PRICE: I move that the report of the Secretary be received and filed.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The report of the Treasurer is in order.

MR. C. A. KREPS: Mr. W. N. Miller, the Treasurer, is unavoidably detained at home but he hopes to be able to come this afternoon. I have his report and with the Association's permission I shall read it.

The report was read by Mr. Kreps as follows:

REPORT OF THE TREASURER.

To the West Virginia Bar Association:

The Treasurer presents herewith a statement by items of his receipts and disbursements for the past year. The last annual report showed a net balance to the credit of the Association of $2054.77. The receipt from initiation fees, annual dues and all other sources during the past year were $1677.29, an increase over the receipts of the previous year of $341.29. Total receipts including the net balance of last year amount to

$3732.06. The disbursements for the past year from the general fund amounted to $1314.62, an increase in disbursements from this fund over the previous year of $427.50. The disbursements on account of The Bar from the funds credited to that account amounted to $355.60, a decrease in expenditures from the previous year of $56.40. The amount of receipts credited to the account of The Bar during the past year was $331.00. The disbursements exceeded receipts credited to this account the sum of $24.60, which, added to the balance against The Bar as shown by the Treasurer's last annual report, of $385.95, makes a total balance against The Bar of $410.55. The total amount disbursed for the general account and for the account of The Bar during the past year was $1670.22, an increase of expenditures over the previous year of $371.10. This increase of expenditures was mainly due to the extraordinary expenses incurred for banquet at the last annual meeting, those expenses aggregating $645.48. Of this sum $186 was for wines and liquors alone. The price, according to the bill rendered, for this banquet was three dollars per plate exclusive of wines and cigars.

The total amount received from all sources including the net balance from the previous year is the sum of $3732.06; disbursements were, general fund $1314.62, for The Bar $355.60, total disbursements $1670.22, leaving a net balance in the Treasury of $2061.84, an increase over the previous year of $7.07.

The Editor and Manager of The Bar has in the past evinced a laudable ambition to make The Bar pay its way. There may be some question made as to whether or not the Treasurer has been crediting to the account of The Bar all that The Bar is entitled to be credited with under the provisions of Section 18 of the Constitution and By-laws. As that Section has been interpreted by him the Treasurer is authorized to carry to the credit of The Bar only "one-fourth of the sum collected as annual dues", and no part of the initiation fees of members has been credited to this account. No question has been raised as to this matter upon the Treasurer's previous reports. If this provision of the Constitution should be interpreted to mean that the Treasurer should carry to the credit of The Bar one dollar of each initiation of Five Dollars provided for in this section The Bar would be entitled to an additional credit of about $172 from initiation fees collected from members admitted since this section of the Constitution was amended providing for the collection by the Treasurer of four dollars instead of three dollars for annual dues. Inasmuch as The Bar goes to every new member it would seem equitable that The Bar

should be credited with the price of The Bar for the first year's membership covered by the initiation fee.

There is also submitted herewith a report of those members delinquent in the payment of dues for a period of two years, which report is required under Article 22 of the Constitution.

Respectfully submitted,

W. N. MILLER,
Treasurer, W. Va. Bar Assn.

RECEIPTS ACCOUNT DUES.

1906.			
Jan.	1	To balance from 1905	$ 2440.72
	1	Frank Cox, 1905	3.00
	1	J. B. Bennett, 1905	3.00
	1	W. G. Bennett, 1905	3.00
	1	F. T. Martin, 1905	3.00
	1	J. W. Vandervort, 1905	3.00
	1	Frank V. Iams, 1905 & prev.	11.00
	1	W. M. Straus, 1905	3.00
	1	W. B. Mathews, 1906	3.00
	1	M. F. Snider, 1906	3.00
	1	J. C. Simpson, 1906	3.00
	1	Harry H. Byrer, 1906	3.00
	1	John L. Lehman, 1906	3.00
	1	Harvey Harmer, 1906	3.00
	1	F. W. Clark, 1906	3.00
	1	T. L. Jeffords, 1906	3.00
	1	A. L. Lehman, 1906	3.00
	1	J. Hop. Woods, 1906	3.00
	1	G. M. Alexander, In. fee	5.00
	1	Linn Brannon, In. fee	5.00
	1	E. A. Bowers, In. fee	5.00
	1	C. W. Campbell, In. fee	5.00
	1	Waitman H. Conaway, In. fee	5.00
	1	George P. Chase, In. fee	5.00
	1	Charles E. Carrigan, In. fee	5.00
	1	H. C. DeShields, In. fee	5.00
	1	A. B. Fleming, In. fee & 1907	8.00
	1	R. F. Fleming, In fee	5.00
	1	A. S. Fleming, In. fee	5.00
	1	Herbert Fitzpatrick, In. fee	5.00
	1	W. W. Hughes, In. fee	5.00
	1	W. S. Haymond, In. fee	5.00
	1	E. F. Hartley, In. fee	5.00
	1	John Henshaw, In. fee	5.00
	1	Leroy V. Holdsberry, In. fee & 1907....	8.00

1906.			
Jan.	1	George N. Hoffheimer, In. fee	5.00
	1	Patrick M. Hoge, In. fee	5.00
	1	Ivory C. Jordan, In. fee	5.00
	1	J. P. Kirby, In. fee	5.00
	1	U. S. Kendall, In. fee	5.00
	1	Ben. D. Koontz, In. fee	5.00
	1	H. S. Lively, In. fee	5.00
	1	I. G. Lazelle, In. fee	5.00
	1	Scott C. Lowe, In. fee	5.00
	1	Tusca Morris, In. fee	5.00
	1	G. W. McCauley, In. fee	5.00
	1	J. A. Meredith, In. fee	5.00
	1	W. S. Meredith, In. fee	5.00
	1	Edwin Maxey, In. fee	5.00
	1	E. F. Morgan, In. fee	5.00
	1	M. M. Neely, In. fee	5.00
	1	M. W. Ogden, In. fee	5.00
	1	Charles Powell, In. fee	5.00
	1	Melville Peck, In. fee	5.00
	1	T. N. Parks, In. fee	5.00
	1	Roy Reger, In. fee	5.00
	1	B. F. Ramage, In. fee	5.00
	1	Amos O. Stanley, In. fee	5.00
	1	Harry Scherr, In. fee	5.00
	1	Geo. P. Shirley, In. fee	5.00
	1	Charles P. Swint, In. fee	5.00
	1	S. D. Stokes, In. fee	5.00
	1	W. W. Smith, In. fee	5.00
	1	Harry Shaw, In. fee	5.00
	1	H. C. Showalter, In. fee	5.00
	1	C. L. Shaver, In. fee	5.00
	1	Leroy Taylor, In. fee	5.00
	1	G. A. Vincent, In. fee	5.00
	1	George S. Wallace, In. fee	5.00
	1	Jared L. Wamsley, In. fee	5.00
	1	Kemble White, In. fee	5.00
	1	L. A. Yeager, In. fee	5.00
	1	Frank R. Yoke, In. fee	5.00
	1	S. M. Hoff, In. fee	5.00
	1	R. W. Monroe, In. fee	5.00
	1	R. A. Watts, In. fee	5.00
	1	Fred. A. Blue, In. fee	5.00
	1	Charles A. Showacre, In. fee	5.00
	12	W. S. Allen, account 1904 & prev.	5.00
Feb.	21	J. H. Gaines, 1905 & prev.	4.50
			21.00

1906.			
Feb.	26	Harold A. Ritz, 1906	3.00
Jun.	5	Murray Briggs, 1906	3.00
Jul.	9	C. J. Faulkner, 1906	3.00
	10	J. W. Vandervort, 1906	3.00
	10	C. D. Merrick, 1906	3.00
	10	M. G. Ambler, 1906	3.00
	10	B. M. Ambler, 1906	3.00
	10	W. W. Van Winkle, 1906	3.00
	11	J. B. Sommerville, 1906	3.00
	11	B. S. Allison, 1906	3.00
	11	B. B. Dovenor, 1906	3.00
	11	Thayer Melvin, 1906	3.00
	11	G. R. C. Allen, 1906	3.00
	11	S. G. Smith, 1906	3.00
	11	W. C. Meyer, 1906	3.00
	11	Geo. E. Boyd, 1906	3.00
	11	C. E. Morris, 1906	3.00
	11	H. M. Russell, 1906	3.00
	11	A. D. Ireland, 1906	3.00
	11	O. J. Chambers, 1906	3.00
	11	Walter Pendleton, 1906	3.00
	11	S. D. Turner, 1906	3.00
	11	W. G. Peterkin, 1906	3.00
	11	Jno. J. Coniff, 1906	3.00
	11	Geo. B. Caldwell, 1906	3.00
	11	Jno. A. Howard, 1906	3.00
	11	Clarence B. Sperry, 1906	3.00
	11	M. G. Sperry, 1906	3.00
	11	Geo. Poffenbarger, 1906	3.00
	11	James L. Hamill, 1906	3.00
	12	H. P. Camden, 1906	3.00
	12	Geo. W. Johnson, 1906	3.00
	12	Dan. B. Leonard, 1906	3.00
	12	Levin Smith, 1906	3.00
	12	W. W. Jackson, 1906	3.00
	12	Chas. E. Hogg, 1906	3.00
	13	John W. Davis, 1906	3.00
	13	H. W. Williams, 1906	3.00
	13	Claude W. Gore, 1906	3.00
	13	W. P. Hubbard, 1906	3.00
	13	Jas. W. Ewing, 1906	3.00
	13	Frank W. Nesbit, 1906	3.00
	13	Alfred Caldwell, 1906	3.00
	13	Romeo H. Freer, 190 6	3.00
	13	Frank P. Moats, 1906	3.00

1906.			
Jul.	14	James H. Strickling, 1906	3.00
	14	B. L. Butcher, 1906	3.00
	14	E. M. Showalter, 1906	3.00
	14	John W. Mason, 1906	3.00
	14	W. B. Cornwell, 1906	3.00
	14	J. C. McWhorter, 1906	3.00
	14	J. Howard Holt, 1906	3.00
	14	J. T. Hoke, 1906	3.00
	14	Henry K. Drane, 1906	3.00
	14	A. C. Nadenbousch, 1906	3.00
	14	W. C. Kilmer, 1906	3.00
	14	E. Boyd Faulkner, 1906	3.00
	14	Allen B. Noll, 1906	3.00
	14	Angus W. McDonald(Charlestown),1906	3.00
	14	Braxton D. Gibson, 1906	3.00
	17	C. W. Dailey, 1906	3.00
	17	Blaine W. Taylor, 1906	3.00
	17	W. G. Wilson, 1906	3.00
	17	L. D. Isbell, 1906	3.00
	17	H. C. Simms, 1906	3.00
	17	Z. T. Vinson, 1906	3.00
	17	R. M. Baker, 1906	3.00
	17	W. R. Thompson, 1906	3.00
	17	J. A. Sheppard, 1906	3.00
	17	Wells Goodykoontz, 1906	3.00
	17	John C. Palmer, Jr.	3.00
	17	H. C. Hervey, 1906	3.00
	17	Benj. Dailey, 1906	3.00
	17	Wm. McDonald, 1906	3.00
	17	F. M. Reynolds, 1906	3.00
	17	W. C. Clayton, 1906	3.00
	17	J. M. Woods, 1906	3.00
	17	X. Poole, 1906	3.00
	17	Ward B. Lindsey, 1905-1906	6.00
	17	Clarence E. Martin, 1906	3.00
	17	J. A. A. VanDale, 1906	3.00
	17	Geo. W. Atkinson, 1906	3.00
	18	A. G. Patton, 1906	3.00
	18	H. H. Moss, Jr., 1906	3.00
	18	E. S. Doolittle, 1906	3.00
	18	J. M. Hamilton, 1906	3.00
	18	H. N. Anderson, 1906	3.00
	18	H. S. Cato, 1906	3.00
	18	R. S. Spillman, 1906	3.00
	18	J. G. Bunting, 1906	3.00
	18	W. W. Brannon, 1906	3.00

1906.

Jul.	18	Jackson V. Blair, 1906	3.00
	18	M. H. Willis, 1906	3.00
	18	J. F. Strader, 1906	3.00
	18	J. F. Barron, 1906	3.00
	18	Ross Wells, 1906	3.00
	18	P. J. Crogan, 1906	3.00
	18	A. L. Hooten, 1906	3.00
	18	A. M. Cunningham, 1906	3.00
	18	J. M. McWhorter, 1906	3.00
	19	A. D. Preston, 1906	3.00
	19	W. Mollohan, 1906	3.00
	19	M. F. Stiles, 1906	3.00
	19	W. G. Mathews	3.00
	19	S. B. Avis, 1906	3.00
	19	Buckner Clay, 1906	3.00
	19	Thos. L. Brown, 1906	3.00
	19	G. W. McClintic, 1906	3.00
	19	W. M. O. Dawson, 1906	3.00
	19	M. S. Hodges, 1906	3.00
	19	U. N. Arnett, 1906	3.00
	19	E. H. Morton, 1906	3.00
	19	H. C. Thurmond, 1906	3.00
	19	W. L. Wooddell, 1906	3.00
	19	John M. Hoover, 1906	3.00
	19	C. P. Door, 1905-1906	6.00
	19	Nelson C. Hubbard, 1906	3.00
	19	H. C. Richards, 1906	3.00
	19	Jos. R. Naylor, 1906	3.00
	19	Frank C. Cox, 1906	3.00
	19	Geo. R. E. Gilchrist, 1906	3.00
	19	Ferdinand Wingerter, 1906	3.00
	19	R. M. Addleman, 1906	3.00
	19	John P. Arbenz, 1906	3.00
	19	L. A. Reyman, 1906	3.00
	19	Frank A. McMahon, 1906	3.00
	19	Robt. White, 1906	3.00
	19	A. J. Clarke, 1906	3.00
	19	T. M. Garvin, 1906	3.00
	19	L. F. Stifel, 1906	3.00
	19	Wm. H. Hearne, 1906	3.00
	20	C. O. Streiby, 1906	3.00
	20	A. J. Valentine, 1906	3.00
	20	G. M. Fleming, 1906	3.00
	20	A. M. Poundstone, 1906	3.00
	20	Felix C. Pifer, 1906	3.00
	20	U. G. Young, 1905	3.00

1906.

Jul.	20	C. C. Higginbotham, 1906	3.00
	20	A. Bliss McCrum, 1906	3.00
	20	Wm. G. Conley, 1906	3.00
	20	Neil J. Fortney, 1906	3.00
	20	C. W. Osenton, 1906	3.00
	20	E. M. McPeak, 1906	3.00
	20	A. W. Hamilton, 1906	3.00
	20	E. L. Nuckolls, 1906	3.00
	20	Robt. T. Hubbard, Jr., 1906	3.00
	20	T. B. Enslow, 1906	3.00
	21	C. L. Brown, 1906	3.00
	21	N. C. Prickett, 1906	3.00
	21	Geo. E. Price, 1906	3.00
	21	R. P. Fluornoy, 1906	3.00
	21	W. L. Ashby, 1906	3.00
	21	W. P. Willey, 1906	3.00
	21	Geo. C. Baker, 1906	3.00
	21	Edgar B. Stewart, 1906	3.00
	21	S. F. Glasscock, 1906	3.00
	21	Jas. C. Frazer, 1906	3.00
	21	C. W. Cramer, 1906	3.00
	21	D. C. Reay, 1906	3.00
	21	Joseph Moreland, 1906	3.00
	21	John A. Preston, 1906	3.00
	21	Frank V. Iams, 1906	3.00
	21	Thomas H. Cornett, 1906	3.00
	21	S. B. Hall, 1906	3.00
	21	T. O. Bullock, 1906	3.00
	21	W. G. Brown, 1906	3.00
	23	J. F. Brown, 1906	3.00
	23	V. L. Black, 1906	3.00
	23	Leo Loeb, 1906	3.00
	23	Angus W. McDonald (Charleston), 1906	3.00
	23	Malcolm Jackson, 1906	3.00
	23	E. W. Knight, 1906	3.00
	23	C. W. Dillon, 1906	3.00
	23	John A. Campbell, 1906	3.00
	23	H. L. Van Sickles, 1906	3.00
	24	Chas. S. Dice, 1906	3.00
	24	John L. Whitten, 1906	3.00
	27	T. N. Reed, 1906	3.00
	27	J. H. Miller, 1906	3.00
	27	A. D. Dailey, 1906	3.00
	27	R. F. Dunlop, 1906	3.00
	27	Robt. L. Bland, 1906	3.00
	27	R. G. Linn, 1906	3.00
			3.00

1906.

Jul.	27	Elliott Northcott, 1906	3.00
	28	Reese Blizzard, 1906	3.00
	30	Aloysius C. McIntire, 1906	3.00
	30	D. E. Matthews, 1906	3.00
	30	John T. McGraw, 1906	3.00
	30	Ira E. Robinson, 1906	3.00
	30	M. H. Dent, 1906	3.00
	30	B. F. Bailey, 1906	3.00
	30	H. B. Gilkeson, 1906	3.00
	30	R. W. Dailey, 1906	3.00
	30	John J. Cornwell, 1906	3.00
	31	W. H. Wolfe, Jr., 1906	3.00
	31	C. W. Lynch, 1906	3.00
	31	L. C. Anderson, 1906	3.00
	31	T. L. Henritze, 1906	3.00
	31	L. M. McClintick, 1906	3.00
	31	Terrence D. Stewart, 1906	3.00
	31	E. L. Robinson, 1906	3.00
	31	A. G. Fickeisen, 1906	3.00
Aug.	1	Chas. McCamic, 1906	3.00
	1	L. J. Williams, 1906	3.00
	3	Haymond Maxwell, 1906	3.00
	3	Richard R. McMahon, 1906	3.00
	3	T. S. Riley, 1906	3.00
	3	Forrest W. Brown, 1906	3.00
	3	T. A. Brown, 1906	3.00
	3	Wyndham Stokes, 1906	3.00
	3	F. L. Blackmarr, 1906	3.00
	3	H. B. Davenport, 1906	3.00
	3	H. B. Woods, 1906	3.00
	4	D. C. Westenhaver, 1906	3.00
	4	John Bassel, 1906	3.00
	7	H. Scott Rucker, 1906	3.00
	7	John D. Alderson, 1906	3.00
	7	A. J. Horan, 1906	3.00
	7	T. B. Horan, 1906	3.00
	9	Andrew Price, 1906	3.00
	11	B. F. Keller, 1906	3.00
	11	J. M. Sanders, 1906	3.00
	13	W. T. Ice, Jr., 1906	3.00
	13	Clark W. May, 1906	3.00
	13	Stewart W. Walker, 1906	3.00
	15	G. H. A. Kunst, 1906	3.00
	20	Andrew Edmiston, 1906	3.00
	23	Melville D. Post, 1906	3.00
	28	J. S. Spencer, 1906	3.00

1906.			
Sep.	3	John Wehrle, 1906	3.00
	4	D. B. Evans, 1906	3.00
	4	W. Dallas Payne, 1906	3.00
	4	Geo. H. Shrewsbury, 1906	3.00
	4	W. Frank Stout, 1906	3.00
	4	R. S. Douglas, 1905-1906	6.00
	5	A. L. Sawtelle, 1906	3.00
	5	John T. Cooper, 1905	3.00
	5	A. G. Dayton, 1906	3.00
	8	L. M. LaFollette, 1906	3.00
	8	E. G. Smith, 1906	3.00
	8	C. M. Alderson, 1906	3.00
	8	R. A. Quarrier, 1906	3.00
	8	Danl. Matthews, 1906	3.00
	4	C. M. Murphy, 1906	3.00
	10	C. F. Teter, 1906	3.00
	10	Samuel V. Woods, 1906	3.00
	13	Grant P. Hall, 1906	3.00
	15	E. P. Rucker, 1906	3.00
	15	R. G. Altizer, 1905-1906	6.00
	19	Chas. A. Smith, 1905-1906	6.00
	22	H. C. McWhorter, 1906	3.00
	22	John J. Davis, 1906	3.00
	26	O. W. O. Hardman, 1906	3.00
	26	Harry W. Bayer, 1905	3.00
	26	St. George T. Brooke, 1906	3.00
	26	Waller R. Staples, 1905-1906	6.00
	26	A. B. Hunt, 1905-1906	6.00
	26	W. T. George, 1906	3.00
	26	C. P. Flick, 1906	3.00
	27	O. S. Marshall, 1906	3.00
	29	H. T. Houston, 1906	3.00
	22	F. T. Martin, 1906	3.00
	22	L. E. Poteet, 1906	3.00
	22	W. E. Haymond, 1906	3.00
Jul.	16	E. D. Talbot, 1906	3.00
Nov.	10	L. C. Crile, 1906	3.00
	10	W. C. Mann, 1906	3.00
	14	W. E. Glasscock, 1906	3.00
	14	H. B. Buster, 1906	3.00
	22	John B. White, 1906	3.00
	26	Harvey F. Smith, 1905-1906	6.00
	26	I. C. Herndon, 1905 & prev.	12.00
Dec.	6	C. C. Watts, 1905-1906	6.00
	12	Chas. H. Johnson, 1905-1906	6.00
	12	W. E. Chilton, 1906	3.00

1906.			
Dec.	12	W. G. Bennett, 1906	3.00
	12	J. B. Bennett, 1906	3.00
	12	W. M. Straus, 1906	3.00
	14	W. R. D. Dent, 1906	3.00
	14	J. E. Law, 1905-1906	6.00
	14	W. N. Miller, 1906	3.00
	14	C. A. Kreps, 1906	3.00
	15	J. H. Gaines, 1906	3.00
	19	I. C. Herndon, 1906	3.00
	20	S. S. Green, 1905-1906	6.00
	24	J. F. Laird, 1906 & prev. (paid by note)	33.00
	26	Interest on deposit in F. & M. Natl. Bank	22.79
			$3737.01

RECEIPTS, ACCOUNT THE BAR.

1906.			
Jan.	1	To Frank Cox, 1904-1905 .....$	2.00
	1	J. B. Bennett, 1905	1.00
	1	W. G. Bennett, 1905	1.00
	1	F. T. Martin, 1905	1.00
	1	J. W. Vandervort, 1905	1.00
	1	Frank V. Iams, 1904-1905	2.00
	1	W. M. Straus, 1905	1.00
	1	W. B. Mathews, 1905	1.00
	1	M. F. Snider, 1906	1.00
	1	J. C. Simpson, 1906	1.00
	1	Harry H. Byrer, 1906	1.00
	1	John L. Lehman, 1906	1.00
	1	Harvey Harmer, 1906	1.00
	1	F. W. Clark, 1906	1.00
	1	T. L. Jeffords, 1906	1.00
	1	A. L. Lehman, 1906	1.00
	1	J. Hop Woods, 1906	1.00
	1	A. B. Fleming, 1907	1.00
	1	Leroy V. Holdsberry, 1907	1.00
	12	W. S. Allen, 1904 & prev.	2.00
Feb.	21	J. H. Gaines, 1905 & prev.	4.00
	26	Harold A. Ritz, 1906	1.00
Jun.	16	Murray Briggs, 1906	1.00
Jul.	9	C. J. Faulkner, 1906	1.00
	10	J. W. Vandervort, 1906	1.00
	10	C. D. Merrick, 1906	1.00
	10	M. G. Ambler, 1906	1.00
	10	B. M. Ambler, 1906	1.00
	10	W. W. Van Winkle, 1906	1.00
	11	J. B. Sommerville, 1906	1.00

1906.

Jul.	11	B. S. Allison, 1906	1.00
	11	B. B. Dovenor, 1906	1.00
	11	Thayer Melvin, 1906	1.00
	11	G. R. C. Allen, 1906	1.00
	11	S. G. Smith, 1906	1.00
	11	W. C. Meyer, 1906	1.00
	11	Geo. E. Boyd, 1906	1.00
	11	C. E. Morris, 1906	1.00
	11	H. M. Russell, 1906	1.00
	11	A. D. Ireland, 1906	1.00
	11	O. J. Chambers, 1906	1.00
	11	Walter Pendleton, 1906	1.00
	11	S. D. Turner, 1906	1.00
	11	W. G. Peterkin, 1906	1.00
	11	John J. Coniff, 1906	1.00
	11	Geo. B. Caldwell, 1906	1.00
	11	Jno. A. Howard, 1906	1.00
	11	Clarence B. Sperry, 1906	1.00
	11	M. G. Sperry, 1906	1.00
	11	Geo. Poffenbarger, 1906	1.00
	11	James L. Hamill, 1906	1.00
	12	H. P. Camden, 1906	1.00
	12	Geo. W. Johnson, 1906	1.00
	12	Dan B. Leonard, 1906	1.00
	12	Levin Smith, 1906	1.00
	12	W. W. Jackson, 1906	1.00
	12	Chas. E. Hogg, 1906	1.00
	13	John W. Davis, 1906	1.00
	13	H. W. Williams, 1906	1.00
	13	Claude W. Gore, 1906	1.00
	13	W. P. Hubbard, 1906	1.00
	13	Jas. W. Ewing, 1906	1.00
	13	Frank W. Nesbit, 1906	1.00
	13	Alfred Caldwell, 1906	1.00
	13	Romeo H. Freer, 1906	1.00
	13	Frank P. Moats, 1906	1.00
	14	James H. Strickling, 1906	1.00
	14	B. L. Butcher, 1906	1.00
	14	E. M. Showalter, 1906	1.00
	14	John W. Mason, 1906	1.00
	14	W. B. Cornwell, 1906	1.00
	14	J. C. McWhorter, 1906	1.00
	14	J. Howard Holt, 1906	1.00
	14	J. T. Hoke, 1906	1.00
	14	Henry K. Drane, 1906	1.00
	14	A. C. Nadenbousch, 1906	1.00

1906.			
Jul.	14	W. C. Kilmer, 1906	1.00
	14	E. Boyd Faulkner, 1906	1.00
	14	Allen B. Noll, 1906	1.00
	14	Angus W. McDonald (Charlestown) 1906	1.00
	14	Braxton D. Gibson, 1906	1.00
	17	C. W. Dailey, 1906	1.00
	17	Blaine W. Taylor, 1906	1.00
	17	W. G. Wilson, 1906	1.00
	17	H. C. Simms, 1906	1.00
	17	Z. T. Vinson, 1906	1.00
	17	R. M. Baker, 1906	1.00
	17	W. R. Thompson, 1906	1.00
	17	J. A. Sheppard, 1906	1.00
	17	Wells Goodykoontz, 1906	1.00
	17	John C. Palmer, Jr., 1906	1.00
	17	H. C. Hervey, 1906	1.00
	17	Benj. Dailey, 1906	1.00
	17	Wm. McDonald, 1906	1.00
	17	F. M. Reynolds, 1906	1.00
	17	W. C. Clayton, 1906	1.00
	17	J. M. Woods, 1906	1.00
	17	X. Poole, 1906	1.00
	17	Ward B. Lindsey, 1905-1906	2.00
	17	Clarence E. Martin, 1906	1.00
	17	J. A. A. VanDale, 1906	1.00
	17	Geo. W. Atkinson, 1906	1.00
	18	A. G. Patton, 1906	1.00
	18	H. H. Moss, Jr., 1906	1.00
	18	E. S. Doolittle, 1906	1.00
	18	J. M. Hamilton, 1906	1.00
	18	H. M. Anderson, 1906	1.00
	18	H. S. Cato, 1906	1.00
	18	R. S. Spillman, 1906	1.00
	18	J. G. Bunting, 1906	1.00
	18	W. W. Brannon, 1906	1.00
	18	Jackson V. Blair, 1906	1.00
	18	M. H. Willis, 1906	1.00
	18	J. F. Strader, 1906	1.00
	18	J. F. Barron, 1906	1.00
	18	Ross Wells, 1906	1.00
	18	P. J. Crogan, 1906	1.00
	18	A. L. Hooten, 1906	1.00
	18	A. M. Cunningham, 1906	1.00
	18	J. M. McWhorter, 1906	1.00
	19	A. D. Preston, 1906	1.00

1906.			
Jul.	19	W. Mollohan, 1906	1.00
	19	M. F. Stiles, 1906	1.00
	19	W. G. Mathews, 1906	1.00
	19	S. B. Avis, 1906	1.00
	19	Buckner Clay, 1906	1.00
	19	Thos. L. Brown, 1906	1.00
	19	G. W. McClintick, 1906	1.00
	19	W. M. O. Dawson, 1906	1.00
	19	M. S. Hodges, 1906	1.00
	19	U. N. Arnett, 1906	1.00
	19	E. H. Morton, 1906	1.00
	19	H. C. Thurmond, 1906	1.00
	19	W. L. Wooddell, 1906	1.00
	19	John M. Hoover, 1906	1.00
	19	C. P. Dorr, 1905-1906	2.00
	19	Nelson C. Hubbard, 1906	1.00
	19	H. C. Richards, 1906	1.00
	19	Jos. R. Naylor, 1906	1.00
	19	Frank C. Cox, 1906	1.00
	19	Geo. R. E. Gilchrist, 1906	1.00
	19	Ferdinand Wingerter, 1906	1.00
	19	R. M. Addleman, 1906	1.00
	19	John P. Arbenz, 1906	1.00
	19	L. A. Reyman, 1906	1.00
	19	Frank A. McMahon, 1906	1.00
	19	Robt. White, 1906	1.00
	19	A. J. Clarke, 1906	1.00
	19	T. M. Garvin, 1906	1.00
	19	L. F. Stifel, 1906	1.00
	19	Wm. H. Hearne, 1906	1.00
	20	C. O. Streiby, 1906	1.00
	20	A. J. Valentine, 1906	1.00
	20	G. M. Fleming, 1906	1.00
	20	A. M. Poundstone, 1906	1.00
	20	Felix C. Pifer, 1906	1.00
	20	U. G. Young, 1906	1.00
	20	C. C. Higginbotham, 1906	1.00
	20	A. Bliss McCrum, 1906	1.00
	20	Wm. G. Conley, 1906	1.00
	20	Neil J. Fortney, 1906	1.00
	20	C. W. Osenton, 1906	1.00
	20	E. M. McPeak, 1906	1.00
	20	A. W. Hamilton, 1906	1.00
	20	E. L. Nuckolls, 1906	1.00
	20	Robt. T. Hubbard, Jr., 1906	1.00

1906.			
Jul.	21	C. L. Brown, 1906	1.00
	21	N. C. Prickett, 1906	1.00
	21	Geo. C. Price, 1906	1.00
	21	R. P. Fluornoy, 1906	1.00
	21	W. L. Ashby, 1906	1.00
	21	W. P. Willey, 1906	1.00
	21	Geo. C. Baker, 1906	1.00
	21	Edgar B. Stewart, 1906	1.00
	21	S. F. Glasscock, 1906	1.00
	21	Jas. C. Frazer, 1906	1.00
	21	C. W. Cramer, 1906	1.00
	21	D. C. Reay, 1906	1.00
	21	Joseph Moreland, 1906	1.00
	21	John A. Preston, 1906	1.00
	21	Frank V. Iams, 1906	1.00
	21	Thomas H. Cornett, 1906	1.00
	21	S. B. Hall, 1906	1.00
	21	T. O. Bullock, 1906	1.00
	21	W. G. Brown, 1906	1.00
	23	T. B. Enslow, 1906	1.00
	23	J. F. Brown, 1906	1.00
	23	V. L. Black, 1906	1.00
	23	Leo Loeb, 1906	1.00
	23	Angus W. McDonald (Charleston) 1906	1.00
	23	Malcolm Jackson, 1906	1.00
	23	E. W. Knight, 1906	1.00
	23	C. W. Dillon, 1906	1.00
	23	John A. Campbell, 1906	1.00
	23	H. L. Van Sickles, 1906	1.00
	24	Chas. S. Dice, 1906	1.00
	24	John L. Whitten, 1906	1.00
	27	T. N. Reed, 1906	1.00
	27	J. H. Miller, 1906	1.00
	27	A. D. Dailey, 1906	1.00
	27	R. F. Dunlop, 1906	1.00
	27	Robt. L. Bland, 1906	1.00
	27	R. G. Linn, 1906	1.00
	27	Elliott Northcott, 1906	1.00
	28	Reese Blizzard, 1906	1.00
	30	Aloysius C. McIntire, 1906	1.00
	30	D. E. Matthews, 1906	1.00
	30	John T. McGraw, 1906	1.00
	30	Ira E. Robinson, 1906	1.00
	30	M. H. Dent, 1906	1.00
	30	B. F. Bailey, 1906	1.00

1906.

Jul.	30	H. B. Gilkeson, 1906	1.00
	30	R. W. Dailey, 1906	1.00
	30	John J. Cornwell, 1906	1.00
	31	W. H. Wolfe, Jr., 1906	1.00
	31	C. W. Lynch, 1906	1.00
	31	L. C. Anderson, 1906	1.00
	31	T. L. Henritze, 1906	1.00
	31	L. M. McClintick, 1906	1.00
	31	Terrence D. Stewart, 1906	1.00
	31	E. L. Robinson, 1906	1.00
	31	A. G. Fickeisen, 1906	1.00
Aug.	1	Chas. McCamic, 1906	1.00
	1	L. J. Williams, 1906	1.00
	3	Haymond Maxwell, 1906	1.00
	3	T. S. Riley, 1906	1.00
	3	Forest W. Brown, 1906	1.00
	3	T. A. Brown, 1906	1.00
	3	Wyndham Stokes, 1906	1.00
	3	F. L. Blackmarr, 1906	1.00
	3	H. B. Davenport, 1906	1.00
	3	H. B. Woods, 1906	1.00
	4	D. C. Westenhaver, 1906	1.00
	4	John Bassel, 1906	1.00
	7	H. Scott Rucker, 1906	1.00
	7	John D. Alderson, 1906	1.00
	7	A. J. Horan, 1906	1.00
	7	T. B. Horan, 1906	1.00
	9	Andrew Price, 1906	1.00
	11	B. F. Keller, 1906	1.00
	11	J. M. Sanders, 1906	1.00
	13	W. T. Ice, Jr., 1906	1.00
	13	Clark W. May, 1906	1.00
	13	Stewart W. Walker, 1906	1.00
	15	G. H. A. Kunst, 1906	1.00
	20	Andrew Edmiston, 1906	1.00
	23	Melville D. Post, 1906	1.00
	28	J. S. Spencer, 1906	1.00
Sep.	3	John Wehrle, 1906	1.00
	4	D. B. Evans, 1906	1.00
	4	W. Dallas Payne, 1906	1.00
	4	Geo. H. Shrewsbury, 1906	1.00
	4	W. Frank Stout, 1906	1.00
	4	R. S. Douglas, 1905-1906	2.00
	5	A. L. Sawtelle, 1906	1.00
	5	John T. Cooper, 1905-1906	2.00

1906.			
Sep.	5	A. G. Dayton, 1906	1.00
	8	L. M. LaFollette, 1906	1.00
	8	E. G. Smith, 1906	1.00
	8	C. M. Alderson, 1906	1.00
	8	R. A. Quarrier, 1906	1.00
	8	Danl. Matthews, 1906	1.00
	4	C. M. Murphy, 1906	1.00
	10	C. F. Teter, 1906	1.00
	10	Samuel V. Woods, 1906	1.00
	13	Grant P. Hall, 1906	1.00
	15	E. P. Rucker, 1906	1.00
	15	R. G. Altizer, 1905-1906	2.00
	19	Chas. A. Smith, 1905-1906	2.00
	22	H. C. McWhorter, 1906	1.00
	22	John J. Davis, 1906	1.00
	26	Harry W. Bayer, 1905	1.00
	26	St. George T. Brooke, 1906	1.00
	26	Waller R. Staples, 1905-1906	1.00
	26	A. B. Hunt, 1905-1906	2.00
	26	W. T. George, 1906	1.00
	26	C. P. Flick, 1906	1.00
	27	O. S. Marshall, 1906	1.00
	29	H. T. Houston, 1906	1.00
Oct.	22	F. T. Martin, 1906	1.00
	22	L. E. Poteet, 1906	1.00
	22	W. E. Haymond, 1906	1.00
Jul.	16	E. D. Talbott, 1906	1.00
Nov.	10	L. C. Caile, 1906	1.00
	10	W. C. Mann, 1906	1.00
	14	W. E. Glasscock, 1906	1.00
	14	H. B. Buster, 1906	1.00
	22	John B. White, 1906	1.00
	26	Harvey F. Smith, 1905-1906	2.00
	26	I. C. Heerndon, 1905 & Prev.	4.00
Dec.	6	C. C. Watts, 1905-1906	2.00
	12	Chas. H. Johnson, 1905-1906	1.00
	12	W. E. Chilton, 1906	1.00
	12	W. G. Bennett, 1906	1.00
	12	J. B. Bennett, 1906	1.00
	12	W. M. Straus, 1906	1.00
	14	W. R. D. Dent, 1906	1.00
	14	J. E. Law, 1905-1906	2.00
	14	W. N. Miller, 1906	1.00
	14	C. A. Kreps, 1906	1.00
	15	J. H. Gaines, 1906	1.00

1906.			
Dec.	19	I. C. Herndon, 1906	1.00
	20	S. S. Green, 1905-1906	2.00
	24	J. F. Laird, 1906 & prev. (Paid by note)	5.00
			$ 331.00

DISBURSEMENTS, ACCOUNT WEST VIRGINIA BAR ASSOCIATION.

1906.				Voucher.	Amount.
Jan.	1	By Cash	Fairmont West Virginian	1	8.50
	1		Fairmont West Virginian	2	2.00
	1		Judge Stafford's Expenses	3	10.00
	22	Check	J. T. Harris	4	110.55
Feb.	7		Hotel Manley	5	25.00
	7		Schafer & Driehorst Co..	6	124.00
	7		P. Welty & Co.	7	62.00
	7		G. B. Williams	8	404.50
	7		W. H. Omen	9	23.00
	7		Jas. E. McCoy	10	31.00
	7		John L. Lehman	11	2.75
	7		John L. Lehman	12	9.41
	7		E. M. Showalter	13	.98
June	5		Elletson-Carver Co.....	14	5.45
	11		W. B. Carpenter Co.....	15	2.65
	24		The State Journal Co....	16	353.40
	24		The Parkersburg Sentinel	17	6.00
	24		The Elletson-Carver Co...	18	3.00
Jul.	25		W. G. Peterkin, Secy.....	19	27.86
	3		G. B. Gibbens, P. M.....	20	4.00
Sep.	1		G. B. Gibbens, P. M.....	21	2.00
Oct.	1		W. P. Willey	22	8.50
Nov.	3		The Elletson- Carver Co..	23	.65
	19		G. B. Gibbens, P. M.....	24	2.00
Dec.	7		C. A. Kreps	25	50.00
	12		New Dominion News Co.	26	35.42
					1314.62

DISBURSEMENTS, ACCOUNT THE BAR.

1906.			Voucher.	Amount.
Jan.	1	Balance from 1905		385.95
	22	By Check—Draft of W. P. Willey	1	40.00
Feb.	20	By Check—Draft of W. P. Willey	2	52.50
Mch.	16	By Check—Draft of W. P. Willey	3	40.00

1906.					
Apr.		By Check—Draft of W. P. Willey	4		40.00
Jun.	5	By Check—Draft of W. P. Willey	5		40.00
Jul.	5	By Check—Draft of W. P. Willey	6		40.00
Sep.	5	By Check—Draft of W. P. Willey	7		40.00
Nov.	21	By Check—Draft of W. P. Willey	8		40.00
Dec.	12	By Check—New Dominion News Co.			23.10
					741.55

Total receipts, including balance from last year, account dues and initiation fees		$3787.01
Total receipts, account The Bar		331.00
		4118.01
Disbursements, W.Va.Bar Assn. (general fund)	1314.62	
Disbursements, account The Bar, including balance from last year	741.55	2056.17
Net balance to credit of Association		$2061.84

PRESIDENT DAVIS: What will you do with the report?

SECRETARY PETERKIN: The by-laws require that it be referred to an auditing committee appointed by the President.

PRESIDENT DAVIS: I observe the programme calls next for the "Appointment of Auditing Committee." The Chair will appoint Mr. Harvey F. Smith, Mr. G. M. Alexander, and Mr. C. W. Osenton as members of the auditing committee.

MR. E. D. TALBOTT: Mr. President; the Committee on Admissions is ready to report.

The report of the Committee on Admissions is read by Mr. G. W. McClintic.

The Committee on Admissions presented the applications, and recommended the election to membership, of the following gentlemen:—

M. W. Gamble, Moorefield; Samuel T. Spears, Elkins; C. H. Scott, Elkins; M. H. King, Elkins; Jed W. Robinson, Elkins; C. W. Maxwell, Elkins; James Coberly, Elkins; Leroy See, Elkins; Shelton L. Reger, Elkins; C. W. Harding, Elkins; W. B. Maxwell, Elkins; B. M. Hoover, Elkins; Jas. A. Bent, Elkins; D. H. Hill Arnold, Elkins; H. K. Kump, Elkins: W. H. Cobb, Elkins; Wilbur J. Strader, Elkins; T. G. Dailey, Elkins; W. E. Baker, Elkins; R. H. Allen, Elkins; E. M. Johnson, Petersburg; D. E. Cuppett, Thomas; Warren B. Kittle, Philippi; A. R.

Stallings, Davis; J. Blackburn Ware, Belington; J. A. Viquesney, Belington; R. R. Smith, Welch; F. C. Cook, Welch; D. J. F. Strother, Welch; Sydney H. Sommerville, Grafton; Hugh Warder, Grafton; J. Meentor Caldwell, Parkersburg; F. H. McGregor, Parkersburg; Upshur Higginbotham, Hinton; Fred K. Fox, Sutton; W. T. Talbott, Webster Springs; W. D. Talbott, Buckhannon.

MR. G. W. McClintic: I will state, further, that I am informed that all these men belong to the local associations in the particular counties in which they reside.

PRESIDENT DAVIS: You have heard the report of the committee. What will you do with it?

MR. J. L. WAMSLEY: I move that the Secretary be authorized to cast the ballot of the entire association for the applicants named in the report.

MR. W. W. BRANNON: I second the motion.

The motion was put by the chair and carried, the Secretary cast the ballot for the gentlemen named, and all of them were declared duly elected members of the Association.

PRESIDENT DAVIS: The report of the Executive Council is in order.

SECRETARY PETERKIN: I will ask Mr. McClintic to read this report as I have such a severe cold and am so hoarse that I am afraid the members could not hear me if I were to read it.

Mr. G. W. McClintic read the report as follows:

REPORT OF THE EXECUTIVE COUNCIL.

To the President and Members of the West Virginia Bar Association:—

At the last annual meeting of the Association there was an extended discussion of the scope of the jurisdiction of the Committee on Grievances in relation to the conduct of members of the Legal profession who are not members of this Association. That Committee as then constituted were inclined to interpret the Constitution as limiting their disciplinary powers to members of the Association, while a majority of the Association declared in favor of a broad jurisdiction, and directed the Executive Council to prepare and report an amendment to the Constitution more clearly and definitely defining the duties of this Committee and providing a course of procedure in cases of unprofessional conduct generally. At the same meeting of the Association a temporary amendment was offered and adopted, which probably very well expresses the views and purposes of the Association in this regard, but in obedience to the order then made the Executive Council herewith presents in fuller and more definite

form a provision defining the duties and course of procedure required of the Committee on Grievances. The Executive Council proposes the following amendments to the Constitution:

(1.) Strike out Articlee 13 and insert in lieu thereof the following as Article 13:

"The Committee on Grievances shall have jurisdiction of all matters relating to the practice of law, and the administration of the Courts, involving any unprofessional conduct on the part of any member of the Bar of this State, or any impropriety on the part of any member of the Judiciary thereof, which may tend to lower the standard of the legal profession, or impair public confidence in, and respect for, the Courts, or otherewise be prejudicial to the interests of the Bar of this State. It shall be the duty of said Committee to take cognizance of all matters of this character which may come to their attention, and it shall be the privilege and duty of all members of this Association to bring to the attention of said Committee all such matters which may come under their observation. All such complaints shall be made to the Committee in writing, with details and particulars. Whenever in the judgment of the Chairman of said Committee, the facts of any such case may warrant it, he shall promptly call a meeting of the Committee during the interim between the meetings of the Association, and shall enter upon a formal investigation of the matter or complaint by such method or procedure as the Committee may adopt. All cases of a minor character shall be pursued by such inquiry as the Chairman or members may adopt for obtaining the facts without a formal investigation. But all cases shall be reported to the Association, at the regular meeting next after the receipt of the complaint, with such recommendations as the Committee shall deem advisable, upon which this Association shall take such action as it may deem expedient. No action by the Committee shall be deemed binding on the Association till formally approved by a vote of the Association.

In all cases arising under this article the accused shall be given due notice and an opportunity to be heard before action is taken.

In all cases of unprofessional conduct on the part of attorneys who are members of the Bar of this State, but not members of this Association it shall be the duty of said Committee, after the case has been reported by the Committee to the Association, and after the Committee has been so instructed by the Association, to bring the matter to the attention of the proper Court or Courts in such manner as the Association may direct; provided that, whenever it is necessary to present any matter arising under this Article to any Court the Association may, if it is deemed

advisable, authorize the President to appoint a Special Committee to assist, and act under, the Committee on Grievances in so doing.

The proceedings of the Committee on Grievances shall be deemed confidential and shall be kept secret except so far as reports of the same shall be necessarily and officially made to the Association."

(2.) Insert the following as Article 15:

"The Committee on Legislation shall have charge of all measures proposed by the Association upon which legislative action is desired or contemplated. It shall be its duty to draft all necessary bills incorporating the special recommendations of the Association, to have the same introduced in the Legislature, and to adopt such means and methods as will promote their enactment into law."

(3.) Change the numbers of the present Articles 15, 16, 17, 18, 19, 20, 21, 22 and 23 to 16, 17, 18, 19, 20, 21, 22, 23 and 24 respectively.

If the above amendments are adopted sections 12 and 13 of the By-Laws, should be repealed as now unnecessary.

The Executive Council represents that they have, in connection with the Banquet Committee, provided a literary and social program for this meeting that will make it both pleasant and profitable. In so doing they have been careful to reserve a good measure of time for the important business and practical measures which ought to have consideration at this meeting,—which measures multiply as the Association grows older, and ought to have a first place on its annual programs, if the Association would fulfill its mission to the profession and the State.

The Council continues to publish and distribute about 650 copies of the monthly journal "The Bar". No special effort has been made to extend its circulation beyond the membership of the Association, because from a pecuniary standpoint it is unprofitable, and involves a large and laborious correspondence. About 100 of the more enterprising members of the profession outside of the Association are subscribers; it is also kept on file in the leading libraries of the country.

Heretofore The Bar has been printed under a contract below the regular rates for such work, but the printer has met the usual fate of the over-generous, has taken in his sign and gone out of business. A new contract for the printing has been made with an establishment in Fairmont, which will make the cost $60.00 more per annum than under the old contract. The cash income for the past year, outside of the apportionment of dues from the Association, has paid the mileage, postage, and has

paid for the Supreme Court Syllabi, stationery and incidentals and left $71.00 in the treasury.

Respectfully submitted,

W. P. WILLEY,

Chairman.

PRESIDENT DAVIS: You have heard the report. What will you do with it?

MR. M. F. SNIDER: I move that it be accepted and filed. That pertaining to changes in the constitution will likely require a special motion.

PRESIDENT DAVIS: Is there any second to the motion made by Mr. Snider?

A. MEMBER: I second the motion.

PRESIDENT DAVIS: It has been moved and seconded that the report be received and filed.

MR. GEORGE E. PRICE: When will these matters recommended by the Executive Council come up in order?

PRESIDENT DAVIS: They are in order now—from the presentation of the report.

MR. G. E. PRICE: What is the effect of filing it?

PRESIDENT DAVIS: I presume the filing of the report would not lay any of its recommendations on the table but would simply make it a part of the record.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The report will be received and filed. Will there be any action upon the recommendations made in the report?

MR. B. M. AMBLER: Mr. President: I am a member of this Executive Council, and of course I have fully deliberated on all these recommendations, which I never heard of until they were just read, but I will say that I fully approve of them as presented. What I am trying to get at is the recommendation for a larger scope of jurisdiction of your Committee on Grievances and I move the adoption of the recommendations of the Executive Council with regard to the Committee on Grievances. The proposition is, (reading the proposed amendment). This is proposed for the purpose of meeting some trouble we have had on several occasions when the question arose as to whether we could go outside of complaints against members of this Association and whether we could go into questions affecting the practice of the profession generally. I move that the recommendation of the Committee be adopted with regard to the change in Article 13 of the Constitution. It seems to be an unfortunate number but that is the way it is.

PRESIDENT DAVIS: You have heard the motion. Is there any second?

MR. ANDREW PRICE: I second the motion.

PRESIDENT DAVIS: It has been moved and seconded that Article 13 of the Constitution be amended in accordance with the recommendation of the Executive Council. Is there any further discussion?

There being no further discussion the motion was put by the Chair and carried.

MR. W. P. WILLEY: There is a provision in the recommendations of the Executive Council in regard to a Committee on Legislation. That is a new standing committee. No duties were prescribed for that committee. This article simply prescribes the duties of the legislative committee. I move that that provision become a part of the constitution.

PRESIDENT DAVIS: I would suggest for the information of the Association, that the Secretary read the provision referred to.

SECRETARY PETERKIN: The provision is as follows: (reads the proposed Article 15.")

PRESIDENT DAVIS: Gentlemen: you have heard that article read. What shall be done with it?

MR. GEORGE E. PRICE: Before the motion is put I want to say that there was a question before the Committee on Legislation last night as to whether that committee was confined to drafting bills as directed by the Association or whether it could take the initiative and report matters that members of the committee might bring before it. I think the article as read rather limits the committee into acting upon such matters as are referred to it, which I suppose is proper. I merely mention that so that members may have in mind, in voting on it, whether they may desire to have only a committee to consider such matters as are referred to it and on which it is directed to act by bill, or whether it is expected that it is to originate any measures and report them to the Association.

PRESIDENT DAVIS: The motion is to amend the constitution by adding thereto a new article, known as No. 15, as reported by the Executive Iouncil, and to change the numbers of the succeeding articles in accordance therewith.

MR. C. W. DAILEY: May I ask for the reading of that article in view of what Mr. Price has said?

MR. M. F. SNIDER read the proposed Article 15.

MR. C. W. DAILEY: I move to amend that by adding to the end of it "and to suggest and submit to the Association such measures as they may think advisable."

PRESIDENT DAVIS: Mr. Dailey moves to amend the

article as reported by the Executive Council, by adding at the end of it, "and to suggest and submit to the Association such measures as they may think advisable." Is there any second to the proposed amendment?

MR. W. W. BRANNON: I second the motion to amend.

PRESIDENT DAVIS: Does the Executive Council accept the amendment? Professor Willey, you have charge of that, I believe.

MR. W. P. WILLEY: I think we will, sir.

MR. B. M. AMBLER: I object.

MR. W. P. WILLEY: I suppose that any committee, either as members or as a committee, has authority outside of the constitution to submit anything or originate anything they want to, and that is not prohibitory, and to add that amendment don't impose upon the legislative committee any obligation to do that. It simply gives them a privilege which they have now.

PRESIDENT DAVIS: It seems that you accept the amendment but your second does not.

MR. W. P. WILLEY: I withdraw my acceptance, then.

MR. C. W. DAILEY: I agree with the chairman of this committee as to the fact that this amendment is not absolutely necessary, but this very committee in discussing various questions, had that matter before it last night. The members of it seemed to doubt whether they have the right to initiate anything, merely because they are put on this committee. Well, now, in order to remove that I have proposed this amendment. They are no as clear on the matter as Mr. Willey and myself; they do not see that it does not interfere with any power that they have.

MR. C. D. MERRICK: I wish to ask a question: Would the adoption of this amendment so tie the hands of the Association that in case some special measure in which some one or more persons were interested were submitted, and who would undoubtedly take a special interest in obtaining the passage of such legislation—would the hands of the Association be tied by putting the matter in charge of those persons and appointing them a special committee? I haven't anything to submit but it is a question whether that would be the effect of it.

MR. B. M. AMBLER: I am taking up more than my share of the time, but let's see what this proposition is. "The Committee on Legislation shall have charge of all measures proposed by the Association upon which legislative action is desired or contemplated. It shall be its duty to draft all necessary bills incorporating the special recommendations of the Association, to have the same introduced in the Legislature, and to adopt such means and methods as will promote their enactment into

law." Most of us know that one of the strong points made by the lawyers and by the general State craft of the nation is to have in each state a committee that shall form legislation not only in order to preserve what is left of our supply and make sure that the thing will go through, but also to look out for it and see that the thing is followed up. Now, it is not intended by this proposition to exclude anybody from making any proposition in the Association of legislation that he may see fit; but it is intended to have a committee on style, a committee on form and a committee that knows something about the laws as they exist and something about what is practical, and in the way of so forming the propositions and resolutions that are passed by this body that it will commend itself to the intellect of the Legislature that is to pass upon it, and to take charge of it and be responsible for it. I am free to say that we could safely trust our present committee on any queestion that might come up and there is none of us who would not be glad to have in the hands of the chairman, Mr. Price, anything we might suggest; but we would not want to be put in the position hereafter of having some other man as a walking legislative committee to go at any time with a proposition to be presented to the legislature and put through the legislature as the act of the Association, when we have never heard anything about it. Now, sir, it is not intended, as my friend Dailey suggests, to cut off any member of the legislative committee from inaugurating before one of the proper committees of this house or before the house as a whole, any scheme, plan or proposition that he may wish to present.

MR. C. W. DAILEY: Mr. President, may I interrupt the gentleman?

MR. B. M. AMBLER: You had better ask me.

MR. C. W. DAILEY: I will ask you directly. Do you understand my amendment to authorize this committee to suggest and submit matters to the legislature for enactment? I said to suggest and submit to this Association such measures as they thought advisable.

MR. B. M. AMBLER: You made your suggestion before that drop curtain was let down and I could not hear very well.

MR. C. W. DAILEY: I am sorry to spoil that speech of yours.

MR. B. M. AMBLER: You haven't half as much regret as I have or as the rest of the members have, and I am going to suggest that I did not misunderstand Mr. Dailey because he could not have made the proposition that a member on this floor could suggest any matter, because he had that liberty before.

MR. GEORGE E. PRICE: The remarks of Mr. Ambler have suggested this thought to my mind. I do not understand that this Committee on Legislation had the right when any mat-

ter was referred to it direct to prepare a bill, to prepare that bill and present it to the Legislature as prepared without reporting it to the Association for its approval before submitting it to the Legislature. I infer from what Mr. Ambler says that his idea is that the Association refers the matter to the committee and the committee merely puts it in form and then takes it to the Legislature without bringing it back here to be adopted. Now, for instance, at the last meeting of this Association our then President, Judge Mason, read a paper pertaining to a reform, in some respects, of the election law and making certain suggestions as to the amending of the law. That paper was referred to the Committee on Legislation. Now, it has not been my understanding that the Committee on Legislation would be expected to frame a bill covering whatever it might think would carry out the suggestions of that paper, and present it to the Legislature, but that we were expected to prepare a bill and bring it here to be adopted and then when adopted to go to the Legislature with it. In other words, my opinion is this: that when a matter is committed to the committee of this body that committee is expected to report back to the body from which it came. If that is so, then, sir, there could be no special objection to the committee recommending matters to the Association which hadn't been committed to it. But I am inclined to think it is better that matters should not take that course—coming from the committee originally—because I think it is always better that a proposition should first be presented to the body and discussed there and put in some form and then sent to the committee, so that the committee may take it under consideration and report it back, when the Association could take proper care of it and discuss it and inform themselves upon it. So I am inclined to think that the resolution is in better shape as proposed by the committee than with the amendment of Mr. Dailey.

PRESIDENT DAVIS: The question is upon the amendment proposed by Mr. Dailey. Are there any further remarks?

MR. W. W. BRANNON: As my friend from Kanawha county has stated, that was a question presented last night to the Committee on Legislation—whether it had power to act upon any matters except the two or three referred to it at the last session of the Association. As I remember one referred to the election laws of our State and another as to whether we ought to have two rule days, which was brought out by the paper read by Captain Poundstone. Now, it seems to me that a committee of this body, on the important subject of legislation, should not be limited to such matters as might be referred to it at the session of the Association preceding. Some question might arise

on which it would be very important for the committee to act, which did not present itself at the previous session of the Bar Association, and it seems to me that that committee ought to have the power to act upon any proposition that may be submitted, or anything that may occur, and report to this body, and have this body act upon the question of whether legislation shall be proposed or asked. I believe that the amendment presented by Mr. Dailey is wise and wholesome and tends to accomplish that for which we seek. I can think of many questions that may arise after the adjournment of this Association and before the next meeting, on which legislation might be desirable, and they ought to be amply considered by that committee and reported to this body. I believe the amendment ought to prevail.

JUDGE JOHN W. MASON: With the view of avoiding any question as to the right of the committee to frame a bill and have it introduced into the Legislature without the approval of this Association, I suggest this amendment: After the word "Association" in the fourth line, that we insert the words, "and when approved by this Association"; so that the sentence will read as follows: "It shall be its duty to draft all necessary bills incorporating the special recommendations of the Association, and when approved by the Association to have the same introduced in the Legislature, and to adopt such means and methods as will promote their enactment into law."

PRESIDENT DAVIS: Pardon me, Judge, but your motion is out of order until the pending amendment is disposed of. The question is upon the amendment as proposed by Mr. Dailey. Are you ready for the question?

MR. B. M. AMBLER: Just one second: I am not sure as to what the constitution provides—and I haven't a copy of it at hand—with regard to amending the constitution; but it seems to me that we may get into some difficulty if we go to amending propositions of the Executive Council, because the recommendation of the Executive Council when ratified by the Association, then does change the constitution. Now, once more: this section does cover the propositions of Mr. Price and also covers the suggestion made by Judge Mason, and it is not obnoxious, I think, to those who would undertake to say that the members of the Committee on Legislation are precluded, by being on that committee, from making any propositions or presenting any bill they may see fit. I apprehend Mr. Price is entirely right in saying that often when a matter has been determined upon and its principles laid down by this Association, that it should then go to the Committee on Legislation to formulate it, and then be brought back to be endorsed—that that would be the ordinary course—although it might be that the

committee might be instructed to proceed and have full power to act. Be that as it may—

Judge John W. Mason: That would be an approval.

MR. B. M. AMBLER: Certainly. Be that as it may, as I understand the suggestion last made by Judge Mason it shall be brought back to the Association for action.

JUDGE JOHN W. MASON: Yes, sir.

MR. B. M. AMBLER: On the other hand, Mr. Dailey's proposition—and I am almost afraid to state it because he did not state it the same way any two times—

MR. C. W. DAILEY: I will ask the stenographer to read the amendment I proposed.

(The stenographer here read the amendment proposed by Mr. Dailey as follows: "By adding to the end of it, 'and to suggest and submit to the Association such measures as they may think advisable' ").

The question being upon the adoption of the amendment the same was put by the Chair and the amendment prevailed.

PRESIDENT DAVIS: The question now recurs upon the amendment to the constitution as amended. Are you ready for the question?

JUDGE JOHN W. MASON: I do not care to insist upon the amendment I suggested. It is merely to make plain a duty that probably would be regarded by the committee without any provision of the constitution. No committee, of course, would insist upon submitting a bill to the Legislature for passage without having first consulted the Association. So I do not think it necessary at all.

A vote was taken and the amendment suggested by the Executive Council, as amended, was adopted.

PRESIDENT DAVIS: Is there anything further in the report of the Executive Council upon which action shall be had?

SECRETARY PETERKIN: The adoption of the amendment concerning the committee on Grievances renders unnecessary sections 12 and 13 of the by-lays, and I move that sections 12 and 13 of the by-laws be repealed, as they cover the same ground in a modified way.

The question was put by the Chair and the motion carried.

PRESIDENT DAVIS: Is there anything further in the report of the Executive Council? If not, the next order of business is a paper by Mr. Crogan on the "Habits and Costumes of Bench and Bar." Mr. Crogan has not arrived yet, I take it. Next in order is the "Report of the Committee on Nominations." I presume that committee has not had an opportunity yet to meet—at least I presume it has had no session.

MR. W. P. WILLEY: Since you have mentioned it, if it

is agreeable to the members of the committee present I will announce a meeting of that committee immediately after the adjournment at the Hotel Randolph.

PRESIDENT DAVIS: If there is no objection the committee will meet at the time and place mentioned. The "Election of Officers" is next in order, which I presume cannot be done until that committee has reported. Next in order is the "Selection of Time and Place of next Annual Meeting." Are we ready for that?

MR. HARVEY F. SMITH: I do not think that matter ought to come up until a large number of members come in. There will be a great many more members present later on.

PRESIDENT DAVIS: The next order of business is a paper by Mr. John T. Cooper on "Direct Nominating Primaries." What is the pleasure of the Association with reference to that paper?

MR. CHARLES McCAMIC: I think that ought to be made a special order for sometime this afternoon. I move we adjourn.

The motion was put by the Chair and lost.

PRESIDENT DAVIS: The order of business is the paper by Mr. Cooper.

SECRETARY PETERKIN: I move we pass to No. 18 and take up the papers in the order in which they come.

PRESIDENT DAVIS: It is moved that we pass over 16 and 17 and go to 18—the report of the Committee on Judicial Administration and Legal Reform.

The motion was put by the Chair and carried.

PRESIDENT DAVIS:—The report of the Committee on Judicial Administration and Legal Reform is in order. What is the pleasure of the Association?

SECRETARY PETERKIN: I move we continue on down to 19, 20 and so on.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The report of the Committee on Grievances is in order.

MR. B. M. AMBLER: It isn't here.

PRESIDENT DAVIS: The report of the Committee on Legal Education.

MR. ST. GEORGE T. BROOKE: I presumed that the greater portion of the morning session would be taken up with the President's address. I have the report of the committee at the hotel and can have it here. However, the report in full is contained in the last issue of "The Bar" and I move that the reading of it be disposed with. I presume the report could be received and the reading dispensed with, and make that motion.

MR. GEORGE E. PRICE: I believe I read "The Bar" and perhaps read that report but I haven't in mind now what the recommendations of that committee were. As we seem to have plenty of time, if that report is ready I suggest that it be taken up, read and acted upon now. The Secretary could read it if Dr. Brooke prefers..

PRESIDENT DAVIS: Is the motion to dispense with the reading insisted upon?

MR. ST. GEORGE T. BROOKE: I have no objection to the Secretary reading it, as far as that is concerned, and I withdraw my motion.

At the request of the Secretary, Mr. C. W. Dailey read the report of the Committee on Legal Education from the November- December number of "The Bar".

(For report see Appendix IV).

PRESIDENT DAVIS: You have heard the report of the Committee on Legal Education. What shall be done with it?

MR. W. G. PETERKIN: I do not think, Mr. President, the report contains any direct recommendations.

MR. JOHN BASSEL: That is what I was going to suggest—that there are no recommendations.

MR. W. G. PETERKIN: In reading it the other day in "The Bar" there was one thing connected with the numerous requirements that struck me as being open to criticism. Now, while I am very much in favor of requiring an applicant for a degree in law to have at least something of a classical education, it seems to me it is carrying it rather too far when the requirement is twenty-seven months of Latin and nine months of history. While Latin will doubtless be greatly to the benefit of a man, yet judging from what I know of the amount of history taught in the public schools, a man who undertakes to go into the practice of law after having studied American history three months, English history three months and Mediaveal history three months, will find himself seriously wanting. While I am heartily in favor of the study of Latin, I believe we would be nearer right if that suggestion was reversed and twenty-seven months devoted to History and nine to Latin. While I admit the importance of the Latin, I think History is more important.

MR. JOHN BASSEL: I can best illustrate a lack of learning by telling a little incident that occurred at our bar not long since, when one of its members arose to discuss some questions and among other things said that he referred to such and such volume of the Virginia Reports "anorted" intending to say "Virginia Reports annotated"; and I have heard pronunciations

almost as bad and have seen a great deal of very bad spelling in legal papers. I took a London paper for a short time last year and in one of the issues of that paper it gave the number of admissions to the highest courts of England—more especially the Kings Bench division—and I counted up the number of admissions—I think there were thirty-five—and every one of the parties admitted to practice in the higher courts of England were graduates of Oxford or Cambridge. The fact of the matter is, the standard of education among English lawyers is much higher than it is among American lawyers. Of course we cannot establish a standard of that kind in West Virginia, but I do think that sometimes there are admissions to the bar of persons who are shamefully deficient in ordinary knowledge, and so far as possible that ought to be eliminated. I do think there ought to be some academical standard required from parties admitted to the bar as well as a standard as to legal requirements; and while the committee made no particular recommendation, I am in hearty sympathy with the action of the governing board of our University, which proposes ti establish a standard before parties shall be admitted to take the law course.

MR. W. P. WILLEY: I am heartily glad to hear that note from one of the older members of the bar and of this Association, because this Bar Association is cognizant of the fact that the older members have heretofore fought against any academical requirements for entrance to the bar. Now, I want to do something practical. I have been so cold since I have been in this room that my circulation has nearly stopped, but I want to see this Association take some steps in regard to academical requirements for examination and admission to the bar. We have to fight that thing and meet that thing every quarter—at every periodical examination, and have had to stand alone. Now, I went to the Supreme Court personally—that is to say, I went to the individual members—and asked them if they would prescribe some academical requirements for admission to the bar. One of the members asked me to draw up a proposition but he told me that he did not believe the court would adopt it—that he didn't think they were in favor of it. I drew up one that was very general in its character. It was an entering wedge as I thought, but they turned it down; they simply said, "We haven't any power to fix academical requirements for admission to the bar." That is the situation in this State and this Bar Association ought to take a pronounced position upon that subject. Now, in order to get something practical before this Association, I move that a committee of which Mr. Bassel shall be chairman be appointed to frame academical requirements for

examination for admission to practice law, and present it for the consideration of this Association before it adjourns.

PRESIDENT DAVIS: A committee of how many members?

MR. W. P. WILLEY: Well, say three members, and I do not want to be on that committee because I make the motion. I would rather it would come from the practicing members of the profession—members who are in regular practice. Let them do it.

MR. C. W. DAILEY: Mr. President, while my name is signed to the report of the Committee on Legal Education, which I read, I feel like saying something anyhow. Like nearly all the other reports that come in here, the chairman, I suppose, or some one else, kindly prepared it, and as has been said there are practically no recommendations in it. I want to differ, however, from the gentleman who has just taken his seat, in the view that the faculty of the law school should prescribe any academical requirements for a candidate merely for the bar examination as it is called, and it is because I agree absolutely with the member of the Court of Appeals referred to by Mr. Willey. That is one reason and, in fact, a sufficient reason for the present—that neither the Court of Appeals nor the law faculty has any power under the statute of this State to ascertain anything or demand anything of a candidate for admission to the bar except that he show sufficient proficiency in the law. I think that the statute is plainly to that effect.

A MEMBER: Do you quote from the Supreme Court?

MR. C. W. DAILEY: I am not quoting from the Supreme Court; I am quoting from Mr. Willey, who said he spoke to a member of the court and that member of the court said he did not believe the court would adopt it or recommend it because they were not in favor of it, and finally when they did turn it down that member told him that the Court of Appeals hadn't the power under the statute to do anything of the kind. And I would have done the same thing and I do not see how anybody else could believe anything else, who read that statute. Whether wise or unwise, so far as the legislation is concerned, it is not a matter for discussion now. If this Bar Association proposes to do anything about it, it must go to Mr. Price's Committee on Legislation, or to some other committee.

MR. GEORGE E. PRICE: I understand Professor Willey proposes that a special committee shall be created to whom shall be delegated the power to present a bill.

MR. C. W. DAILEY: Not to present a bill. Mr. Willey's motion was that a special committee be appointed to prescribe the academical requirements. Now, I have no objection, un-

derstand, to them reporting at this meeting of the Association. I take it if that committee upon examination of the subject comes to the conclusion that under the existing statutory law of this State none can be required from a mere candidate for bar admission, it can so report and it may recommend what it thinks ought to be adopted as the law of the State. I only want now to free myself from the idea that would of course be drawn so far as this report of this committee at this time recommends the adoption of academic requirements from a candidate for admission to the bar, if for no other reason from the fact that I do not believe there is power in the Court of Appeals to make these requirements. Whether it should be made—whether the statute ought to be so changed as to allow it,—it is a question that is not now up for discussion, of course.

MR. W. P. WILLEY: I don't want to leave a wrong impression in regard to my motion. I want to get an expression from this committee as to what their judgment is of the academical requirements for admission to the bar, and to have them report to the Association, and let the Association consider it and discuss it and determine the matter as an Association, without anything farther than that. If they want then to recommend the resolution, that is another matter; but I want this Association to put itself on record as to what should be the academical requirements.

JUDGE JOHN W. MASON: The committee might have this trouble: What this Association might desire to have done is one thing and what the Association or any other body of men can do under existing legislation is quite another thing. This vote might not really test the views of the Association.

MI. W. P. WILLEY: I am not going to take issue with the views of these legal gentlemen, but I know the statute of the State gives the Supreme Court absolute authority to prescribe the rules and requirements for admission to the bar.

PRESIDENT DAVIS: You have heard the motion made by Professor Willey—that a special committee of three be appointed, with Mr. Bassel as chairman, to prepare and report to the Association the necessary educational or academical requirements to be required of candidates for admission to the bar.

The question was put by the Chair and the motion prevailed.

PRESIDENT DAVIS: The Chair will appoint that committee after the noon recess.

MR. J. L. WAMSLEY: I move we take a recess until 2:30 this afternoon.

The motion was put by the Chair and carried.

FIRST DAY.—AFTERNOON SESSION.

The Association re-assembled at 2:30 p. m.

PRESIDENT DAVIS: The Association will be in order. The Chair announces, under the resolution offered by Professor Willey this morning, the following committee to report upon the academical qualifications required for candidates for admission to the bar: Messrs. John Bassel, John W. Mason and Hunter H. Moss, Jr.

Next in order of business is the paper by Mr. P. J. Crogan. Is Mr. Crogan present?

MR. W. P. WILLEY: Do not pass that. I think there is a paper here from Mr. Crogan—at least I understand there is—and if you announce that a little later may be it will call it out.

PRESIDENT DAVIS: Is Mr. Crogan here or does any one hold a paper prepared by him? If not, the next order of busineess is the report of the Committee on Nominations. Is that committee ready to report?

MR. B. M. AMBLER: The Committee on Nominations report the names submitted to them and also the names as reported by the committee:

Mr. Ambler read the report of the Committee.

PRESIDENT DAVIS: The election of officers, members of the Executive Council and delegates to the American Bar Association is in order. The election must be by ballot and the Chair will appoint Mr. Sommerville and Mr. Mason G. Ambler to receive and count the ballots.

The election of officers was then held with the following result:

President—J. Hop. Woods, of Philippi.

Vice Presidents—First District, Nelson C. Hubbard, of Wheeling; Second District, Robert W. Dailey, of Romney; Third District, Charles W. Osenton, of Fayetteville; Fourth District, Judge M. H. Willis, of West Union; Fifth District, Judge George Poffenbarger, of Pt. Pleasant..

Secretary—W. G. Peterkin, of Parkersburg.

Treasurer—C. A. Kreps, of Parkersburg.

Executive Council—W. P. Willey, of Morgantown; B. M. Ambler, of Parkersburg; Henry M. Russell, of Wheeling; Elliott Northcott, of Huntington; E. L. Nuckolls, of Fayetteville.

Delegates to the American Bar Association—John J. Coniff, of Wheeling; W. N. Miller, of Parkersburg; Charles Edgar Hogg, of Morgantown.

MR. C. W. OSENTON: I desire to call the attention of the President to the special order set for 3 o'clock.

PRESIDENT DAVIS: The special order set for 3 o'clock is the address of the President. I would be glad if Vice President Moss, would take the Chair during the reading of the President's address and any discussion that may follow it.

Judge Moss takes the Chair.

(The President here delivered his address on the subject "Growth of the Commerce Clause." See Appendix.)

There being no discussion of the address the President resumed the Chair.

PRESIDENT DAVIS: The next matter in the regular order of business is the selection of the time and place of the next annual meeting. Is the Association ready to take up that topic?

MR. B. M. AMBLER: I move that it be passed for the present.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: The next order of business is a paper by Mr. John T. Cooper on "Direct Nominating Primaries."

(For Mr. Cooper's paper see Appendix III.)

PRESIDENT DAVIS: Discussion of the paper just read is in order. Any discussion of the paper? In the absence of any discussion the next business in regular order is the report of the Committee on Judicial Administration and Legal Reform.

MR. B. M. AMBLER presented and read the report.

(See Appendix V.)

PRESIDENT DAVIS: You have heard the report. Is there any discussion?

JUDGE HUNTER H. MOSS, JR.: I trust the Association will not believe that it is solely from a selfish standpoint that I arise to oppose the recommendation of the Committee that has just reported in reference to the election of Special Judges. We have now, as we all know, four terms of court in each county in the circuit. I believe it to be the case that every judge in this State has about as much as he can do with just a little while for rest. I believe it to be a fact, and I believe the bar regard it as such, that a circuit judge should be permitted to at least keep himself in such condition as that he can properly discharge the duties of his office.

Now, then, with all that, we are confronted by the proposition that at the beck and call for another judge, a judge of a circuit should be required to leave his work, which may at that particular time be very important, and go away to some distant place in order to take up a case for another judge. I do not

oppose, Mr. President, the accommodation or the courtesy which one judge should show to another, but I do most strenuously oppose a proposition which I believe would seriously cripple the public business. My observation is that as a rule the attorneys practicing at the bar of a court do select fit men to preside as special judges. I do not claim to be as qualified to judge of their ability as the members of the committee who have reported, but I say that is at least my judgment—that they are reasonably capable men and that they properly discharge the duties of their office, and I venture to say, Mr. President, that if the report of that committee is adopted on that proposition, that these gentlemen who are busy lawyers and those gentlemen composing that committee would be the very first to object to a judge leaving his own work and going to another circuit to discharge the business which he is called upon to do. I understand that that report recommends that that be made mandatory—that he must leave. When shall he leave? Shall he leave his own business or shall he get through with his business before he leaves? If the latter, then there will be serious delay and great confusion. I am opposed to that amendment.

MR. MELVILLE PECK: I would personally be unwilling to see that paper adopted because it reflects upon ourselves and upon the bar of this State, in that it compares the members of the bar to backwoods justices of the peace. I would be ashamed to see that in our minutes, and I hope that if the paper be adopted at all, that that part of it will be stricken out.

MR. GEORGE E. PRICE: I agree with the remarks of Judge Moss on the question of special judges and the election of special judges. I am inclined to think, sir, that the members of any bar are as capable of selecting a special judge to hold a term, as the people at large. I should like to see the time come when the recommendations of the bar for the judges of our courts would at least find consideration and acceptance, and that an effort be made by the bar everywhere, amongst themselves, as far as they can, to recommend to the people lawyers suitable to hold court. Now, sir, why is it not just as easy and as competent for the members of the bar when it comes to electing a special judge, to do so properly and elect a proper man, as if they had to select a candidate for the whole term? My experience, sir, is similar to that of Judge Moss—that we get almost as good judges when they are selected by the members of the bar as our regular judges upon the bench. Sometimes they are better and sometimes they are not so good, but on the average we get good lawyers to preside as special judges, and I believe it is a safe practice and I think it is a much more

satisfactory practice for the expedition of business than to depend upon the exchange of circuits by the judges, either through courtesy or by compulsion. I think it would be absolutely inadvisable to make it compulsory because as it has been pointed out a judge cannot go sometimes when he is called without interfering with his own term, and if it is to be put off until he finds it convenient to go, he might not be able to go within any reasonable time; I therefore am very much opposed to that feature of the paper.

MR. C. W. DAILEY: I move, if in order, that each of these recommendations that the report contains be taken up separately and acted upon.

PRESIDENT DAVIS: I think the motion is in order. It has been moved that the report be separated and that the recommendations be acted upon separately.

The motion was put by the Chair and carried:

PRESIDENT DAVIS: The first recommendation in the report, as I remember, is that in reference to the recommendation concerning the election law.

MR. B. M. AMBLER: I do not understand that Mr. Dailey meant to take them up in order, but separately.

MR. C. M. MURPHY: I want to inquire whether the Association is proposing to adopt the argument or the recommendations—the argument in support of the thing or the recommendations themselves? It seems to be the policy of the committee not only to recommend things but to give their reasons for recommending them. It is a little like the judge who gave his decision and then gave his reason for it; the decision might be proper and his reason for it erroneous.

MR. C. D. MERRICK: If I am in order I will make a motion in regard to this recommendation as to the special judge question, and that is, simply and plainly, that the recommendation of the committee be not adopted.

MR. C. W. DAILEY: I second the motion.

MR. JOHN BASSEL: And on that question some of the committee would like to say a word. I did not suppose it would be very popular to broach such a proposition at this time because we have been so accustomed to this western method of degrading the office from its proper dignity and respect that it may be a little hard to depart from it; but from the beginning I have never had any respect for it and I have less now than I ever had. I do not believe myself that it would be attended with any of the disadvantages that have been conjured up by my friend Judge Moss of the Parkersburg circuit. A statute could be very readily passed providing that in any case where the circuit judge was disqualified, which of course would be but seldom—it

might be from accident or it might be from relationship or it might be on account of pecuniary interest or from some other cause that would render it improper for him to preside—a statute could very easy provide that in any such case the judge so disqualified might call upon the judge of another circuit to come and preside at the trial or hearing of any particular case or cases. Now, that could be a matter of arrangement. The Legislature could very easily provide that a judge so called upon should not be required to go while he was presiding at the trial of any case, but the statute could provide that there could be an exchange of circuit judges and that the judge called upon to go to another circuit should have his place supplied by the judge so calling upon him. That was the old system; that was what was done; the law did not require it but that was the system followed, and that is the system to-day that is being followed in the great State of Pennsylvania, and there is no inconvenience connected with it. And there is another thing; the taking of judges of different circuits to different parts of the State would possibly make them better acquainted with the members of the bar and they might possibly offer some new ideas to the bar that had not been accustomed to their rulings and methods of practice. This idea of electing a judge by passing around the hat and having the ballot of three or four members of the bar thrown into it, or of possibly a larger number, does not certainly comport with the proper ideas of the dignity attaching to this office; and I say here, what was said in that report, without mentioning names, that I have seen men placed on the bench to decide cases who in my opinion were not exactly in their native element when so presiding. My friend, Mr. Brannon, who sits over here, had an uncle who was judge of this circuit a good many years ago and I am reminded of a story of him from a gentleman who happened to be present in court when the incident occurred. For some reason the judge of the circuit, for his own county, could not sit in two or three cases and two or three attorneys were called upon the same day to preside. The old judge happened to walk in at the door, and he looked up and saw a certain individual sitting on the bench, and all he said was, "Good God Almighty!" and he turned around and walked out.

MR. CHARLES McCAMIC: It was a case of mistaken identity, wasn't it?

MR. JOHN BASSEL: Yes, decidedly. Now, I submit that the Association feels that when we have increased the number of circuit judges and increased their salaries very considerably, and when we have at least been trying to increase the quality of the judges—that with all that effort it is a reproach to say that it is necessary now and then, in each county, to

elect some judge for the hearing and trial of a case in the manner provided by this statute. As I say, it is a western method followed only by a few states. The older states of this Union —the great commercial states—do not tolerate any such practice, and it was repugnant to the ideas prevailing in this State and Virginia prior to 1873. If it should not be popular here and should not receive the assent of this Association I am really gratified that I can call attention to it—.

MR. HARVEY F. SMITH: The report of the committee calls this matter a western idea. To say that, would not necessarily make the matter obnoxious and objectional. I very heartily agree on the whole with the statement made by Judge Moss, although I do not think that the report engrafted in the law would be as objectional as he thinks it possibly might be. Very recently at a meeting of this body, as I recollect, it was the sense of the body that the lawyers of this State should take a more active part in the election of judges. Now we are to determine whether we shall take a less important part; and yet at that meeting it passed unanimously that we should take a more important part in the selection of judges. Most judges that are elected to preside in the various circuits are men of some property rights and they are not always able to dispose of their various stocks in the banks, and other commercial interests, so that it would make it possible for them to preside in various cases; but I apprehend if the report as suggested should become a law that cases would be delayed from one to two terms getting a judge from some nearby or distant circuit to preside. In the various cases which I now recall where circuit judges have been called upon to preside, the cases have seldom or never been determined at the same term of court that they were submitted, and that is one reason why local judges should be selected. I am not here to discredit the statements made by Brother Bassel, from his experience. Of course he knows of the correctness of the special illustrations that he gives; but I do not understand why the laity at large is more competent to select judges than the lawyers who are expected to select judges to try cases. If that is true there ought to be some reason given to support it. For my part I should dislike very much to see this recommendation pass.

MR. CHARLES McCAMIC: I am inclined to favor the report of the committee. The argument against the adoption of this report reminds me a great deal of the condition that used to exist in New Jersey. There the statute once provided that, in addition to the number of judges, learned in the law, who were to sit there should be a lay member of the court—the man

who was the lay member to furnish the common sense and his brothers on the bench, who were lawyers, to apply the law. Now, going a step farther, they elected a brewer in New Jersey to the Supreme Court under that law, and for years New Jersey was entertained with the spectacle of having a person who was versed in the common sense vernacular of brewing, gracing and adorning the great and honored position of Supreme Judge. Now, I haven't any ambition to be elected a special judge, but without insinuating anything it seems to me that a great many people do desire to be elected special judges. I do not know whether we would introduce them as Special Judge So-and-So or Special Judge somebody else, or give them a title of Judge.

A MEMBER: They are not all politicians.

MR. CHARLES McCAMIC: Yes; but some of us are "extinguished" politicians. Now, I see no reflection in that report upon the ability of any member of the bar; I do not think that report was intended to insinuate that any member of the West Virginia Bar Association belonged to that category described as a "backwoods justice of the peace". Personally I see no objection to the adoption of the report calling for the judge of an adjacent circuit to sit in any case in which the judge is personally interested by accident or otherwise.

MR. C. D. MERRICK: Mr. President, I did not wish in making this motion to be understood as opposing the plan of a judge of a circuit exchanging the hearing of causes with a judge in an adjoining or other circuit. Not at all. If that can be done and done speedily and promptly, by all means have it done; but I know from experience that very often that cannot be done when it is very desirable and necessary—that the public business in the different circuits actually prevents that—and I do know that unless we have some arrangements such as we have now that there will be delays. There is delay in the business and I know of a good many cases when serious delay has been prevented by having this arrangement. Now, it may not be entirely satisfactory in the shape it is; it may be a more careful form and method should be observed in electing a special judge. I can think myself of a method that could be proposed which would add to the dignity of the election and probably insure a better selection at times, which might be adopted. For instance, the judge of a circuit might nominate three or four members of the bar practicing in that court and the election could take place from these three or four members of the bar—something of that kind. I admit that I prefer, myself, it could be done and done satisfactorily and the business of the court transacted promptly and cases heard promptly, to have simply an arrangement by which there would be no special judges and

that there should be an exchange between the judges of the different circuits; but I do know that without that under the present arrangements the business will not be transacted promptly, very often, and I become more and more impressed each year with the necessity of the business being transacted promptly, and of methods being adopted by which that will be reached. I am not going to tell any stories either out of my own experience or that of others, but I will say that I have had it impressed upon me recently more than once that I would like to see passed a law that would require the judges of the courts to enter upon the order book, the day or have the clerk keep a docket showing the day when the case was submitted, and then hear them in the order in which they are submitted and dispose of them in that order. Then again I have thought sometimes I would like to see an order spread upon the order book showing when the case was submitted, and then if the judge could not at the subsequent term of the court decide that case, to spread another order upon the order book showing right there and then why it was he could not decide the case.

A MEMBER: And how?

MR. C. D. MERRICK: If there are objections to these things, and I say there are objections, then let us have the special judge, but I am making these suggestions as showing that there is an absolute necessity for methods which will bring about a prompt decision of the case. I would rather have a prompt decision, and an erroneous decision at times, than not to have any decision at all.

MR. B. M. AMBLER: I believe I can mention one or two of those cases that you have had.

MR. C. D. MERRICK: Don't do it. With these suggestions I will leave it with the Association.

MR. E. D. TALBOTT: I want to say that I am not in sympathy with that report. Now, I do not know how you would get along in summary proceedings if you had to wait until you sent out for a judge from an adjacent circuit. For instance, in land condemnations for railroad purposes, as well as the sale of infants' lands. In such cases what you do you want to do promptly. With the election of special judges as we have it now we can transact the business promptly, and I agree with Judge Moss that the members of the bar are more competent than the mass of the people at large, to elect a judge. If the members of the bar are not competent to elect a special judge what would we do if we alone elected the judges of all the courts? We would make a mess of it. Now, you take the judge of the circuit court here: We want a special term and he cannot come. He cannot be here and how can we proceed?

What will we do? We elect a special judge and we do not elect some backwoods justice of the peace. However, I agree with that report in that I have seen a few that reminded me of Judge Brannon's remark.

MR. C. W. DAILEY: Did you ever see any elected by the people who reminded you in the same way?

MR. E. D. TALBOTT: Yes, sir; I have seen some elected by the people who reminded me of it. Now, that is not casting any reflection upon anybody. We have all seen them if we will only tell the truth. If you want to improve and help the Supreme Court, help the circuit judge to get his decisions right and then you will help the Supreme Court.

MR. GEORGE W. McCLINTIC: Question. It is almost six o'clock and let's close this discussion.

MR. W. W. BRANNON: I did want to say a few words on that proposition. I have had the honor, if an honor it could be considered, to preside a great deal as a special judge. (Laughter.) I have sat a good many times as a special judge in the county of Harrison, hence the opposition from that county to a continuation of the system. Now, Mr. President and gentlemen, we have many more circuits than we formerly had and many more judges than we formerly had and hence we can secure the services of a neighboring judge much more easily than we could when one judge held two terms of court in eight counties of the State, per year. I am favoable to the report of this committee—entirely favorable.

MR. C. W. DAILEY: Le me interrupt you: Did you say you had sat a number of times in Harrison county?

MR. W. W. BRANNON: Yes, sir.

MR. C. W. DAILEY: Mr. Bassel is from Harrison, I believe.

MR. W. W. BRANNON: Yes; and I said a while ago that I expected the reason Harrison county was opposing special judges was because I had sat there.

MR. W. P. HUBBARD: Who was it your uncle saw on the bench? (Laughter.)

MR. W. W. BRANNON: That was in Ohio county and not Harrison. Now, seriously speaking, it is belittling to the judiciary and an undignified procedure in the administration of justice to have the contests we frequently have among the members of the bar as to whether a particular gentleman shall be elected special judge for a particular case. There is much judicial work to do in the State and if we call upon the judge of one circuit and bring him into our circuit, he is not engaged in the discharge of his own duties while there holding court but the duties of our judge who exchanges with him and does

his work. It seems to me it does not increase the whole amount of work to be discharged by those occupying judicial positions. I am heartily in sympathy with the sentiment contained in the recommendation. I think it is without question—and I have seen many instances of it—very undignified to have a scramble over whether you will elect a special judge for a particular case, and what particular gentleman shall be elected for that case. Why, not long since I wanted to secure some appeals in tax cases for the Baltimore & Ohio Railroad Company and some other railroad company in the county of Lewis. Judge Lynch called a special session but could not be present and it became a question what gentleman should occupy the position on the bench of special judge and discharge the duties. Some of them thought it was simply monstrous that the Baltimore & Ohio Railroad Company should ask for an appeal—a thing specially provided for by the statute—and we had a spirited discussion whether we should have one gentleman, who was supposed to be unfavorable to the appeal, notwithstanding the statutory requirements, or whether it should be another gentleman who would do what the law positively required. We had a contest of that kind in the county of Lewis, notwithstanding our progress, advancement and ambition; and I have seen similar contests in the counties of Braxton and Webster and elsewhere, and I do not know anything more belittling, more undignified, if the Association please, than to see a contest of that kind, and to have one little lawyer jumped up for one case and anothed for another until three or four special judges are selected, when the whole thing could be discharged either by transferring the case to another circuit, as we have a right to do, or by calling a judge from another circuit to exchange with the one in charge. I believe the recommendation should be adopted.

MR. CHARLES McCAMIC: Tell us how you knew that that man was against the appeal.

MR. W. W. BRANNON: Well, we understood that well enough and we looked out for a man who would grant the appeal.

JUDGE H. H. MOSS, JR.: My principal reason for arising again is to state that Mr. Merrick practices in various circuits and that the present incumbent of the judicial office of his circuit never held a case after the next term. As I size up this argument now the advocates of this amendment say that the reason this amendment should be adopted is because back in the years that are gone circuit judges had plenty of time to travel all around. Now, it must be remembered, Mr. President, that with the increase of population, and that with the vast increase of business in all varieties of industry, that the causes which are pending before judges of the different circuits are

much more numerous than they were back yonder when they called in another judge to act. Again they say it is an undignified proceeding. Why? Whose fault is it that it is an undignified proceeding? If it is the fault of the court then the court should correct it; if it is the fault of the bar then the bar should correct it. Why is it any more undignified than it is for the election of a regular judge which so many lawyers think should be eliminated from politics? Why is it undignified, as the gentleman says, if only three or four vote? Now, Mr. President, it seems to me that it would be the duty of the court when an election was to be held for a special judge to hold it at a time when some of the people are present—at the morning hour or motion hour when the members of the bar are present. I have never seen any court room in which only three or four voted for a special judge. Does the gentleman mean that the members of the bar when an important matter of that kind would come up, would simply sit still and not vote or refuse to vote? I think not. I do not think any member of the bar who has the good of the profession at heart would refuse to vote and I say it is a great exception—I say it without fear of successful contradiction—that it is a great exception when only three or four vote on the election of a special judge. My friend Mr. Merrick says that the committee did not reflect on the bar. If they could reflect on it any more, I would like to know how they would put it. I think it is a reflection on the bar not only in the language used but in the argument used, that the members of the bar do not think enough of their profession and hadn't enough sense to select a proper man to preside at the trial of the case. Mr. President, I say that if the rule is changed and every time a special judge must be elected that the judge of another circuit must be sent for who will have to travel over miles and miles and then go back again and then come again to decide the case, that the first thing you know we are going to have chaos and confusion in the different circuits of this State, and I think this amendment should be defeated.

MR. C. D. MERRICK: Just a word of personal privilege: I want to say that I did not get up to go after Judge Moss; I was not going after him or any particular judge.

JUDGE HUNTER H. MOSS, JR.: I am aware of that, Mr. Merrick.

On motion of Mr. T. P. Jacobs a recess was taken until 8 o'clock p. m.

FIRST DAY.—EVENING SESSION.

The Association met at 8 o'clock p. m.

PRESIDENT DAVIS: Gentlemen of the Bar Association: We have now reached in your order of business what is the crowing feature of our meeting—the annual address by ex-Governor A. J. Montague of the State of Virginia. This gentleman needs no introduction nor do I desire to indulge in any fulsome eulogy. It is enough for me to say to you that he is now Dean of the Law School of Richmond College, ex-Attorney General and Governor of the Old Dominion, and at the last meeting of the Pan American Congress represented not only his own State but the people of the United States, and it is of that meeting that he will speak to you this evening.

Gov. Montague here delivered the annual address. (See note at Appendix II.)

MR. W. P. HUBBARD: We owe it to ourselves to take some note and make some entry of the pleasure we have had from the eloquent, instructive and suggestive address to which we have just listened. I therefore move that the Asssociation return to Governor Montague its thanks for that address and with it request his permission for the publication of the address with the proceedings of the Association, and that the Association further expresses its hope that Governor Montague will extend his stay during the remainder of the session of this meeting, not omitting the final function tomorrow night.

The motion was propounded by the chair and unanimously adopted.

On Motion of Mr. J. W. Vandervort the Association adjourned until tomorrow morning at 9:30 o'clock.

SECOND DAY.—MORNING SESSION.

The Association met, pursuant to adjournment of last night and was called to order by President Davis.

PRESIDENT DAVIS: The pending question is the motion made by Mr. Merrick on yesterday to disapprove that part of the report of the Committee on Judicial Administration and Legal Reform, which reports adversely to the election of special judges. Are you ready for the question on that motion?

MR. T. P. JACOBS: I do not think as interesting a question as that ought to be allowed to pass without a little further discussion, if it will produce as much music as we had yesterday.

PRESIDENT DAVIS: The motion is before the house for further discussion. Judge Jacobs has the floor.

MR. T. P. JACOBS: I haven't anything to say to justify being taken down on the subject of the election of special judges, but I will say that the judge of our circuit is very kind in holding special terms himself in cases where the public need requires it, but there are occasions when special judges have to be elected. I think this is a matter that ought not to be resorted to except in extreme cases. It tends to degrade the bench and derrogate from its dignity in the eyes of the people. Now, we have unfortunately at the Wetzel county bar some seven different persons who back in the '80's succeeded in breaking through and getting a license to practice law—men who from that day to this have never been anything but briefless barristers. One of them to-day is a barber; another is a stone-cutter; another is a "hoss trader"; another is a justice of the peace; another is a patent-medicine man; another is the keeper of a peanut grocery; and the seventh one is what is generally termed a "business man." Now, in some way or other, whenever the clerk notifies the bar that a special judge is to be elected he always gets the information to these gentlemen and they are there with promptness and regularity and they control the personnel of the special judge, and that becomes disgusting—contemptible I might say—so it seems to me that if the prevision is to obtain for the election of a special judge to meet an emergency, the law ought to provide that the regular judge shall nominate for the suffrages of the bar some two or three persons who are fit to occupy that position and that the electors should select from those persons and not from the bar at large.

MR. MELVILLE PECK: May I ask you a question: Suppose the circuit judge is disqualified by reason of interest in the case, would you give him the selecting of the men to try the case?

MR. T. P. JACOBS: I would permit him to make a selection of a number of candidates to be voted for, and for this reason: On one occasion it was necessary to have a special judge elected in a case and a beardless youth, scercely twenty-two years old, was elected and sent to the bench and commenced deliberations in the hearing of a case, when a member of the bar slipped to the clerk and told him that it was his duty not only to hold an election but to see that the material put on the bench had all the requisite qualifications of age, responsibility and otherwise, and he was compelled to do something humilating to himself and humilating to that young man by declaring the election vacant and holding another election. There may be an emergency when it is absolutely necessary to elect someone

specially, but such emergency is rare. I said to a friend of mine yesterday that in the first twenty years of my professional life I did not know of the election of a single special judge; and during the term I had the fortune or misfortune to serve on the circuit bench it was only necessary for me once to resort to the election of a special judge. I had no difficulty—none whatever—in getting other judges to come from other circuits. It is just like an old time log rolling, in a certain sense: if you help at my log rolling I will help at yours; and I had no difficulty in the world.

MR. J. L. WAMSLEY: We had considerable discussion of this question when it was up before this body on yesterday, but replying to Judge Jacobs in the instance in Wetzel county, as he states, it strikes me that if the lawyers there would enforce the law as it is written in the book that they would obviate this trouble. I have before me the section that provides for the election of a special judge. It is Section 11 of Chapter 112 of the Code of West Virginia, and it says that the attorneys present and practicing in said court may elect a judge. Now, if that man who runs the peanut stand and those other people who run the different kinds of business—

MR. T. P. JACOBS: The barber.

MR. J. L. WAMSLEY: And the one who runs the barber shop and the horse trader come in to vote on the question of a judge, they might be reminded that they are not practicing attorneys and that they would not be allowed to vote.

MR. JOHN BASSEL: If he had a case before a justice of the peace he would be a practicing attorney.

MR. J. L. WAMSLEY: I suppose then as a practicing attorney he would have a right to vote.

MR. A. JAY VALENTINE: What qualifications are required for a judge that may be elected by the people? May he not be a peanut stand keeper or a horse trader or anything else?

MR. J. L. WAMSLEY: He might be if the members of the bar of any county would be so forgetful to their duty, to themselves and to the court they practice in as to elect such a man, if he be a practicing attorney; but judging from the action of the bar of Randolph county, as I have noticed it for the last quarter of a century, there never has been a judge elected, and I take it there never will be a judge elected, who is not qualified to fill the place of special judge and especially for the purpose for which he may be elected.

MR. VALENTINE: You do not catch my question. It is this. Are there any qualifications required as to the regular judge who may be voted upon at the general election?

MR. J. L. WAMSLEY: There is no special qualifications except that he be a practicing attorney, I presume, and thirty years of age. Now, I see the object of your question.

MR. VALENTINE: Then there are no further qualifications and no other qualifications for a judge elected by the people than there would be for a judge elected by the attorneys present when a special judge is elected.

MR. J. L. WAMSLEY: Then the people might elect a barber or the keeper of a peanut stand as judge, according to Mr. Valentine's idea of it; but according to Judge Jacobs, if I understand his position, I think they would just be as likely to do such a thing as would the members of the bar of any county in this State that I am acquainted with. I know that the bar of Randolph county have always heretofore elected a man who was qualified to fill the position with dignity, and did so fill the position, and so far as our experience in that line here has been, it has been perfectly satisfactory, and I do know that there are circumstances that make it almost impossible to get along with the business without the provision for the election of a special judge. Now, I do not think that a special judge should be elected to try a case in which the judge of the circuit is interested. We have a provision that authorizes the bringing of suits in which the judge of a circuit court is interested in another circuit, in the county nearest or at the county seat of the county nearest the county seat of the residence county of the judge. Now, I think that is a good provision and I think further, as I have stated, that no member of the bar should be put on the bench to try a case in which the judge of the court may be interested; and I do not think that a jury should be empanneled from the circuit in which the judge presides, to try a case in which he is interested. The reasons for this ground are obvious—that a lawyer who is called upon to try a case in which his judge is interested would feel a delicacy and might be a little bit biased either for or against the judge of his court. So might a juror be biased. Then you would not have a court or a jury trying the case, that is free from prejudice or bias. So it might be that this clause that provides that a suit in which the judge is interested may be brought in another circuit should be enlarged and let it provide further that when a judge is elected to the office that all the cases he is interested in shall be remanded to another circuit and there disposed of, and especially those that he is interested in personally. Possibly it might be that a special judge could be elected to try a case that the judge is interested in as attorney. There is, however, a reason against electing an attorney a special judge to try any case in the court in which he practices. The law provides that

a judge shall not practice law at all. Now the same reasons for the law providing that a judge of a court shall not practice law prevail against the election of a member of the bar as a special judge. He might have some case pending in court in which the question that he is to decide is involved and it might operate on his mind and cause him to decide the case that he is to decide in a particular way; it might prevent him from deciding it according to his best notions of the law. Now, that is one of the reasons why I agree with Judge Jacobs when he says that this authority should be exercised only on rare occasions when the public necessity demands it.

MR. A. M. CUNNINGHAM: Let me ask you a question: Are you opposed to the statement in the report of this committee that many lawyers get on the bench who are no more fit to try a case than a backwoods country justice of the peace? Are you opposed to that statement?

MR. J. L. WAMSLEY: I am.

MR. A. M. CUNNINGHAM: I want to know, then, if you have not made a more severe castigation of and reflected more severely upon the bar of this State, than the statement contained in that report, through your statement that an attorney who might be elected to try a case wherein the judge was interested might decide that case the way the judge was interested because he would want the judge to decide a case his way,—or his case his way? I want to know now, sir, if that isn't a more severe reflection upon the honor and dignity of the profession than is made in that report? Nothing but the ignorance of the lawyer is referred to in that statement of this committee; while you reflect upon his honor and upon his sworn duty as an officer of the court. I take it, sir, that your statement here is the worse reflection, and in that connection I want to call your attention to an incident that happened in Tucker county where the judge of the court said in a certain case there, in unequivocal terms, that the position of the plaintiff's attorney was wrong; and eventually when it was called up and he saw that he could not decide the case because he was interested in it, a special judge was elected to try that case. He had heard of this statement and went on the bench and took the case, and considered it maturely, and when he came back he stated that he was forced to disagree with the judge of the circuit court upon that question and therefore sustained the position of the plaintiff in that case and in the face of that judge; and I do not know an attorney at our bar but would do that at any time, nor do I know any one practicing at any bar in this State who would not, and Mr. Wamsley's remarks should be stricken from this record with respect thereto.

MR. J. L. WAMSLEY: My position may be a reflection on the attorney and it may not be. It just depends upon whether it is or not; (Laughter) but I shall insist upon my remarks remaining in the record. The law makers for a time that runs back as far as the memory of any of us reaches, and as far back as history reaches, tell us that no judge shall sit in a case in which he is interested or shall try a case in which he is interested.

MR. T. P. JACOBS: Well, you are only talking about these backwoods justices, aren't you?

MR. J. L. WAMSLEY: I am talking about a judge who is elected by members of the bar, in good standing and practicing at the bar that elects the judge. I say that this judge is interested in the result of the case because he has a case pending perhaps in court.

MR. ANDREW PRICE: Will you allow me to interrupt you for one minute?

MR. J. L. WAMSLEY: Yes, sir.

MR. ANDREW PRICE: There are a great many cases in which it is necessary to hold a special term of the circuit court that amounts to a formality, you might say, or the action of a notary public. In other words, that there will be some decrees to enter to which there will be no opposition; and why should you put the State to the expense of bringing a regular judge to do that? Why not then a special judge? Now, there are two kinds of special judges: (Laughter) the special judge who is selected to enter those decrees that are a mere matter of form and when he does that he assumes no higher position than that of a notary public who takes the acknowledgement of a deed, because it goes as a matter of course; but it may turn around that there will be a jury case or that there will be a term of court to be held in which a judge will be selected to hold that court in the place of the regular circuit judge. In that case, sir, you will find that the most careful discrimination is used to select that judge, at that time, and you will find a man on the bench who ranks with—I cannot say who ranks higher —but who ranks with the circuit judges of this State.

MR. J. L. WAMSLEY: Now, Mr. President, I do not think I have said a word that is at issue with what my friend, Mr. Price, has said. I said that there were occasions that required the election of a special judge and I think the instance recited by him would be one of the instances.

MR. ANDREW PRICE: But there are two kinds of special judges. (Laughter.)

MR. J. L. WAMSLEY: I will agree with the gentleman

that there are two kinds of special judges and from some of the remarks made on this floor I think there are three kinds.

MR. ANDREW PRICE: Just wait a minute Mr. Wamsley.

PRESIDENT DAVIS: Does Mr. Wamsley yield?

MR. J. L. WAMSLEY: Yes, sir.

MR. ANDREW PRICE: I remember one occasion on which our county seat justice, a very able young lawyer of about three days experience, presided. (Laughter.)

MR. J. L. WAMSLEY: How is that? I did not catch the remark of the gentleman.

MR. ANDREW PRICE: Well, I gather from the few rambling remarks that you have made that you had compared certain special judges with the backwoods justices. (Laughter.) I have the honor, sir, to come from Pocahontas county and I am proud of it. On that occasion that I remember now, when it became necessary to hold a special term of the court, our distinguished judge lived in Fayette county and would have had 150 miles to travel for four decrees of sale to be entered there of importance and to which there were no objections. At that time they elected a lawyer as special judge who was at the time a backwoods justice.

MR. J. L. WAMSLEY: I do not apply a part of that remark to myself for I have not even reflected upon the backwoods justice. I think my distinguished friend who has just taken his seat has been rambling some himself. (Laughter.)

MR. ANDREW PRICE: Now, I have nothing more to say except to reiterate what I have already said.

MR. J. L. WAMSLEY: There are occasions that demand the election of a special judge by the lawyers and I think that that is a good provision and that there would be no other way of electing one except in that way; and it is provided further that a judge can be agreed upon by the parties. Now, I still insist that if a judge is interested in a case it should be taken from him and should not be tried either by a jury or a lawyer in his circuit.

MR. McCAMIC moved the previous question and the same was ordered.

PRESIDENT: The question recurs upon the motion of Mr. Merrick that so much of the report of the Committee on Judicial Administration and Legal Reform as refers to the election of special judges, be disapproved.

The question being put by the Chair the motion was carried.

PRESIDENT DAVIS: The report of the Committee on Judicial Administration and Legal Reform is still before the

Association and the first section of that report in relation to elections will be ready by the Secretary.

The Secretary read the section.

PRESIDENT DAVIS: What will you do with the report of the Committee on Judicial Administration and Legal Reform in relation to elections?

MR. CHARLES McCAMIC: I move that the remainder of the report of the Committee on Judicial Administration and Legal Reform be laid on the table.

The motion being put by the Chair was carried.

PRESIDENT DAVIS: In the course of the programme on yesterday we passed the paper by Mr. P. J. Crogan on the 'Habits and Costumes of the Bench and Bar." I understand he is not here but I have an intimation that his paper is. Is there any information as to that fact?

MR. ANDREW PRICE: I move that leave be granted to print the paper by Mr. P. J. Crogan.

A. MEMBER: I second the motion.

MR. W. W. BRANNON: I think we ought to have some information as to whether the paper is here or not.

MR. M. F. SNIDER: I think we ought to have that paper read before it is printed in the record, as we do not know what it contains. We might want to print it and we might not. I suppose it is all right, coming from Mr. Crogan, but I do not think we ought to set a precedent of printing in the record papers that are not read.

MR. T. P. JACOBS: I want to endorse the proposition made by Mr. Snider. It has been the universal rule of this Association to refuse to print anything except it first came before the Association.

PRESIDENT DAVIS: Next in order is the report of the Committee on Grievances. Is that committee ready to report?

MR. T. P. JACOBS: Mr. President, the Committee on Grievances always has something to report, although it is very brief this time. I will read the report:

(For report of the Committee see Appendix VI.)

PRESIDENT DAVIS: You have heard the report of the Committee on Grievances. What will you do with it?

MR. CHARLES E. HOGG: For the information of the members of the Association I desire to state that Volume 58 of the West Virginia Reports is now in the hands of the bar. Probably some four or five weeks ago I raised some complaint at the delay in the issue of Volume 59 and upon inquiry I find that it is in the bindery at present and that Volume 60 is already in type, which brings down the decisions and reports to date, so

that the bar will be relieved of the anxiety growing out of that feature of the publication of the report.

MR. T. P. JACOBS: I will simply state that that does not do the profession any good. It has been the universal custom, as soon as these reports are ready for sale and distribution, that the Secretary of State should send out notice to that effect. Now, we have been almost twenty-two months without any such notice. I am glad to know that these reports are so well up, but so long as they are in the hands of the printer or binder or Secretary of State they do the profession no good, and this suggestion is simply a spur to induce the powers that have this thing under their control to be more expeditious in the future. There is no reason why we should have a hiatus of twenty-two months and then that Volumes 58, 59 and 60 should be dumped into our laps in three or four weeks.

MR. GEORGE McCLINTIC: The fact about the printing of these volumes seems to be this: That when they let the printing of these particular volumes a firm in Morgantown got the contract and the difficulty is that the proof has to go backwards and forwards, and it is a further fact that the firm in Morgantown did not comply with the contract strictly in regard to the setting of them but attempted to set them up in a way a little different, which caused probably one volume to be thrown away.

MR. W. P. HUBBARD: Do they read the proof in Morgantown?

MR. GEORGE McCLINTIC: Yes; and the Attorney General also reads it, but his office is in Charleston and he cannot very conveniently live in Morgantown, and consequently cannot read the proof there. It is unfortunate that there is such a long distance between the point where he is and where the proof has to be read. These are the difficulties that have confronted the Attorney General's office in the question of time and they are the real cause of the delay.

MR. A. JAY VALENTINE: It occurs to me that any action this Bar Association might take will do but very little to hurry up the public printer: but this Bar Association has in its power the means of informing, to a certain extent, the bar of this State promptly what the decisions of the Supreme Court of this State may be, and that is by publishing in "The Bar" within a reasonable time at least after the decisions are handed down, the syllabi of the different cases and not string them along from month to month after the decisions have been rendered, so that the syllabi as they appear in "The Bar" are as stale as the reports of the Supreme Court of this State when published under the heading of "Fresh from the Supreme Court." You will find syllabi in the current issue of "The

Bar" of cases that have been decided months and months ago and which were reported in the Southeastern Reporter months before even the syllabi appeared in "The Bar". Now, it seems to me, sir, that the Bar Association has control over the issuing of "The Bar" and that we ought to take some action whereby we can at least get some benefit from the appearance in "The Bar" of the syllabi of the cases reported by the Supreme Court of Appeals, or if we cannot do that let us dispense entirely with this stale report that we have in every issue of "The Bar."

MR. ANDREW PRICE: I think that this report is overlooking the good work that two Charleston papers are doing in regard to reporting cases in the Supreme Court of Appeals. Now, take the Charleston News and the Charleston Gazette, you will find—(Laughter)—I do not mean to be funny in this —but if you will take those two papers you will find that within the last year they have been printing in full the syllabi of all supreme court cases just as they are printed in "The Bar" later; and while they do not come out the first day after the decisions are rendered they do come out in the course of two or three days, and I think it may be well to mention that fact in this report.

SECRETARY PETERKIN: I move that the report be received and filed.

PRESIDENT DAVIS: It has been moved and seconded that the report be received and filed.—So ordered.

MR. T. P. JACOBS: I have a little matter that I beg the indulgence of getting in here, as I cannot see any other place to get it in, and if the Association approves of the measure it can say so. Four years ago, I believe it was, the Association at Wheeling approved of this same measure which I am going to ask the Secretary to read. It passed the Senate and got pretty well on the way in the House but did not pass. It is a matter that affects the whole profession. I shall ask the Secretary to read it and then I want to move that this Association approve of it and that it appoint every member of this Association who is a member of the Legislature a committee to pilot it through and secure its passage.

PRESIDENT DAVIS: I understand you ask unanimous consent to take that up out of the regular order.

PRESIDENT DAVIS: If there be no objection it will be done.

SECRETARY PETERKIN: I will ask Mr. McClintic to read it as I am too hoarse.

MR. GEORGE McCLINTIC here read the proposed bill as follows:

"An Act to amend and re-enact section thirty-three of

Chapter one hundred and thirty of the Code of West Virginia, relating to the taking and certifying of depositions.

Be it enacted by the Legislature of West Virginia; That section thirty-three of Chapter one hundred and thirty of the Code of West Virginia be amended and re-enacted so as to read as follows:

Sec. 33. In any pending case the deposition of a witness, whether a party to the suit or not, may, without any commission, be taken in our out of this State by a Justice or a Notary Public or by a Commissioner in Chancery, or before any officer authorized to take depositions in the County or State where they may be taken; and such depositions may be taken in short hand, or stenographic characters or notes, but shall be written out in full and transcribed into the English language and certified by the officer taking the same; and if certified by such officer under his hand, and if further certified by him that such stenographic chararcters and notes were correctly taken and accurately transcribed by him, or under his direction and supervision, and that the witness testifying was duly sworn, such deposition may be received in evidence without proof of the signature of such certificate, and without the signature of the witness to such deposition."

MR. T. P. JACOBS: My motion now is that the Association approve of the proposition and that the members of this Association who are members of the Legislature be appointed a committee to secure its passage.

PRESIDENT DAVIS: Is there any second to that motion?

MR. MELVILLE PECK: I second the motion.

The question was propounded by the Chair and the motion carried.

PRESIDENT DAVIS: Next in the regular order is the report of the Committee on Legal Biography.

MR. A. M. CUNNINGHAM: I am not willing to see Mr. Valentine's suggestion with respect to the printing of the syllabi in "The Bar" of the opinions of our Supreme Court of Appeals passed without further notice or something said by the publishers in regard thereto. I would like to have an explanation of it.

PRESIDENT DAVIS: You are not in order except by unanimous consent of the House. Our order of business is the report of the Committee on Legal Biography.

MR. A. M. CUNNINGHAM: I will ask unanimous consent to call up the other matter.

PRESIDENT DAVIS: If there be no objection consent will be granted.

MR. A. M. CUNNINGHAM: I simply rise to ask why

these opinions in the shape of the syllabi are not printed sooner.

MR. W. P. WILLEY: "The Bar" is only published once a month. The syllabi accumulate to a certain extent and it would occupy all the space of "The Bar" if we printed all of them all the time. The rule has been to occupy the space of one-third of "The Bar" with the syllabi of the Supreme Court. If the Association wants any more than that I suppose it has the privilege of ordering it or directing it or expressing a desire for it; but the policy has been to give a variety of new matter in "The Bar" and to occupy only one-third of it with the syllabi. If the Association wants more than that it can have it. I would be very glad to have an expression on it.

PRESIDENT DAVIS: Are there any further remarks on the subject?

MR. A. M. CUNNINGHAM: I think the members of the bar of this State would want the opinions of the Supreme Court of Appeals in the shape of the syllabi, rather than to have those little squibs that we see in there that we can get in the "Green Bag" or any other law publication; therefore I move you that the publisher of "The Bar", under the direction of this Bar Association, print the syllabi regardless of the space it takes.

A. MEMBER: I second the motion.

PRESIDENT DAVIS: It has been moved and seconded that "The Bar" be required to print the syllabi as received, without regard to space. Are there any remarks?

MR. B. M. AMBLER: The members of the bar perhaps do not know that the official organ of this Association is a sort of gratuity in the sense that it costs almost nothing, and it is a gratuity in the sense that Professor Willey does all the work for nothing and gets nothing but blame for it when he comes to the Association. It was suggested sometimes ago that we print in full all the decisions of the Supreme Court, and print them quickly—before they were reversed. We demonstrated that that would take a good many more hundreds of dollars than we could command, and that was abandoned. Now, with all deference to our friend, the object in the establishment of "The Bar" was to provide an open forum where the lawyers of the State could get in communication, in order to try to cement the union we are trying to establish amongst the membership; but of course we cannot all agree upon everything that comes from the Supreme Court and sometimes those decisions would not tend in that direction. Certainly it was not intended that "The Bar" should take the place of the "Green Bag" or the "Southeastern Reporter" or the regular reports. It was intended for the simple purpose, as stated, of providing an open

forum for the free discussion by the lawyers of this State of any matters that would interest them. Every now and then you find some article that is re-copied in "The Bar" and some very able articles written by the editors, (I am one of them) undertaking to tell you what the Supreme Court don't know; but with all seeriousness, you ought to be careful how you criticise "The Bar". You get it, I think, at a cost of about 8 1-2 cents a copy. The work is absolutely and literally a labor of love. The only man who has stood by it during the years that it has been running is here and he has refused four or five times to accept the compensation that has been voted to him, but he is pitched into at every meeting because some man thinks if he were the editor he would do it differently. Now, I will say in all kindness to Brother Cunningham that if any man wants to furnish the brains and the time and the money to print the syllabi of the Supreme Court in order that they can stand in type for a while at least, let him come forward and do it, but don't shoot at the man who is doing the best that he can and is working for very small pay.

MR. J. W. VANDERVORT: I just want to say to Professor Willey that we all appreciate the good work that he has been doing and I want to ask him what would the annual cost of the publication of the syllabi be in "The Bar", and whether it would make a lengthy publication.

MR. W. P. WILLEY: The cost of the printing of "The Bar" is about seventy-seven cents a page. We print forty-eight pages, and one-third of that, sixteen pages, has been assigned to the syllabi of the Supreme Court of Appeals. The balance is made up of miscellaneous matters and such matters as we supposed would interest the bar of the State. Now, if we propose to make it an organ or vehicle for the communication of the syllabi entirely, at times it would take nearly all the space of "The Bar" to print the syllabi.

MR. W. P. HUBBARD: Mr. Vandervort's question is not what it would cost to print the syllabi instead of the matter as now printed, but to add to that.

MR. W. P. WILLEY: Seventy-seven cents a page is what we have been paying for printing "The Bar" and there are fifty-two pages.

MR. B. M. AMBLER: And how many more pages would it take to print the average number of syllabi?

MR. W. P. WILLEY: I suppose I have in my possession now enough to occupy the usual space of "The Bar". As I say, they accumulate and we endeavor to print them all but sometimes they are not very fresh on account of the accumulation. We can print more of these if this Association desires.

MR. J. W. VANDERVORT: What I was trying to get at particularly was, from the superior knowledge Professor Willey has of the number of syllabi and the amount it costs for publication, just what the additional annual cost would be. Of course he can make an estimate. He has already given it by pages but I do not get at it yet—whether it would cost $250 more a year to publish all the syllabi, or as nearly all as possible, as they come out, or more or less. I am just wondering whether the Bar Association could reasonably undertake that expense and to some extent satisfy the demand made upon it.

MR. W. P. WILLEY: You could eliminate the amount of miscellaneous matter published.

MR. J. W. VANDERVORT: No, I do not mean that.

MR. W. P. WILLEY: Now, that is what I want to know—if the Association wants all the syllabi and we cut out everything else it won't increase the cost any, but if you want an additional number of pages it would cost seventy-seven cents a page. I suppose it would cost one-third more to print "The Bar" that way. I have a man there at Charleston—a clerk to one of the judges of the Supreme Court—who sends them from there, and we can send them out every month fresh if the Association wants to have them, but it would either cut out the miscellaneous matter or add to the cost of "The Bar" one-third.

MR. ANDREW PRICE: I want to say in explanation of any remark I made about "The Bar", that I just supposed that "The Bar" was invulnerable, so far as it is concerned. I consider it one of the best law magazines we get but like other magazines the January issue probably goes into the hands of the printer about November. Now, that is the way a magazine is printed, as a rule. I do not know that that is the case with "The Bar" but if it is a true magazine that is what it does. Now, with all due respect to "The Bar" I have always considered the printing of the syllabi therein as not of the greatest advantage, because of late the daily papers are printing them. Now, sir, I would like to see in that "Bar" in the place of the matter that has been printed by the daily papers, such matter as Professor Willey would select as good reading for us children. Now, if I have said anything about "The Bar" I have said it because I think "The Bar" can stand anything a one-horse lawyer can say about it.

PRESIDENT DAVIS: Are you ready for the question?

JUDGE M. H. WILLIS: If the clerk of the Supreme Court is present, we might probably have some explanation of why it is that for a time—two years ago or three years ago, I will say—papers in the northern portion of the State printed very excellent reports of the decisions of the supreme court, but are not now doing so. I think they made them almost as good

as my friend from Pocahontas county says the papers in Charleston are doing at the present time; but up in the northern portion of the State we are not now receiving any benefits of that kind.

MR. W. B. MATHEWS: The clerk's office is open early and late. It is simply because the representatives of those papers do not come there and write up the syllabi, or the story of the case. I think the Wheeling Intelligencer had a representative who served that paper very acceptably for a number of years—acceptably to the lawyers—but that service has been discontinued for some reason. The clerk, of course, hasn't time to prepare such reports for the press generally.

MR. M. F. SNIDER: May I ask you, Mr. Mathews, does the supreme court allow the syllabi to go out now before cases are finally decided or the term closed?

MR. W. B. MATHEWS: The rule is that the opinions are not released to the Southeastern Reporter until thirty days after the rendition of the decision, but any newspaper representative who desires to do so may come in and make as copious extracts as he wishes.

MR. IRA E. ROBINSON: When are they released to the publishers of "The Bar"?

MR. W. B. MATHEWS: At any time they may chose to publish them. The fact is in the last number of "The Bar" I notice some late cases, I believe the editor of "The Bar" gets the slips from the secretaries of the judges. They do not even hold up for a petition for a rehearing. When there is a petition for a rehearing it is held up as to the Southeastern Reporter—which is regarded as a semi-official reporter for us. The newspapers, however, can have anything they want.

MR. J. W. VANDERVORT: I do not remember just what the question is.

PRESIDENT DAVIS: The question is upon the motion of Mr. Cunningham that "The Bar" be required to print all syllabi as fast as they appear, regardless of the effect on the rest of the issue.

MR. J. W. VANDERVORT: I would like to second that but in addition I would like to provide for their publication in "The Bar" without eliminating the other matter—at additional cost, I mean.

MR. A. M. CUNNINGHAM: I accept the amendment; it will cost about one hundred and fifty or one hundred and sixty dollars more a year.

PRESIDENT DAVIS: The question is upon the motion as made by Mr. Cunningham.

The question was propounded by the Chair and the motion did not prevail.

PRESIDENT DAVIS: Next in regular order is the report of the Committee on Legal Biography.

SECRETARY PETERKIN: I have received a report from the Chairman of the Committee, Colonel Robert White, and Mr. McClintic has kindly consented to read it for me.

Mr. McClintic here read the report.

(For report of Committee on Legal Biography see Appendix VII.)

PRESIDENT DAVIS: You have heard the report of the committee. What will you do with it?

SECRETARY PETERKIN: I move that it be received and filed.

The motion was put by the Chair and carried.

MR. W. W. HUGHES: Do I take it from the reading of this report that the notices are confined to the members of this Association?

PRESIDENT DAVIS: Yes, sir.

MR. W. W. HUGHES: I would like to suggest that since the last meeting of this Association Judge L. L. Chambers, of the Eighth Judicial Circuit, has died. I am not familiar enough with the facts of his life to make any particular statement of them but he was born in Monroe county, this State, I believe, and located in McDowell county some twelve years ago for the practice of law, and served first as judge of the criminal court in that county for several years and was elected two years ago judge of the Eighth Judicial Circuit. He became sick almost directly after taking his seat as circuit judge and held but a few terms of court. He died last June. Judge Chambers was a very loyal man, a man of firm convictions and stood honorably by his convictions. If he had lived he would have been an honor of the bench of this State—or rather he would have continued to be an honor to the bench of the State. I merely make this suggestion in order to have his name appear in the record as one who has departed this life since our last meeting.

PRESIDENT DAVIS: Are there any further remarks touching the report?

MR. G. W. McCLINTIC: Two distinguished lawyers in Southern West Virginia, not members of this Association, have died since the last meeting. I cannot forego mentioning their names to this Association and I would suggest, if there be no objection, that this note be made of the fact. I refer to General J. W. St. Clair and to the Hon. Alexander F. Mathews. Southern West Virginia never produced two lawyers of greater ability

than those two men and they died so closely together in the last sixty days,—one in Fayette county and one in Greenbrier county —that I would suggest, if there be no objection, that the Association make note of the fact along with this report.

PRESIDENT DAVIS: The next regular order of business is the report of the Committee on Legislation. Is that committee ready to report.

MR. M. G. AMBLER: Mr. George E. Price is chairman of that committee and he was called to Chicago unexpectedly this morning and asked me to read his report.

PRESIDENT DAVIS: The Association will listen to the report.

MR. M. G. AMBLER here read the report.

(For report of the Committee on Legislation, with proposed bills, see Appendix VIII.)

PRESIDENT DAVIS: Gentlemen, you have heard the reading of the report. What is the pleasure of the Association —to consider it by sections or as a whole? What is the pleasure of the Association in relation to the report?

MR. M. F. SNIDER: Mr. President, I move that the report be received and that it be considered section by section and that each bill that is proposed be read as we come to it, commencing with the first one.

MR. IRA E. ROBINSON: I do not rise for the purpose of seconding the motion because I do not believe that this Association has time to undertake that sort of procedure; it would be well, no doubt, to do it if we had the time. My suggestion would be that this Association direct the Committee on Legislation to attend the Legislative sessions and to look after the legislation that has been reported upon, and that the report should be received and filed and if necessary approved by this Association; but for us to go into a discussion of the many things reported by the committee would take at least a week's session if we handled the subjects as they should be handled. I move you, sir that the West Virginia Bar Association—I had better make this as a suggestion because I do not know whether it should be to direct the Committee on Legislation to attend the Legislative session, or a special Legislative Committee, (you may call them lobbyists if you desire). Those are the kind of lobbyists you need at a Legislative session—members of an Association of this kind. It is now know to the members of this Association that the West Virginia Bankers Association have a committee to attend the session at the expense of that Association, and who are paid for their time. That looks like business.

MR. J. W. VANDERVORT: This is only a suggestion: As we desire to expedite business I am in favor of the motion of

Mr. Snider. We certainly do not wish to recommend to the Legislature the adoption of laws we have never heard read, the contents of which we do not know and of the provisions of which we have but little idea.

MR. IRA E. ROBINSON: There is nothing recommended but what this Association has discussed. Two or three bills are mentioned there.

MR. J. W. VANDERVORT: You take the bill as to natural gas—

MR. IRA E. ROBINSON: As I understand it there is no recommendation as to that but there is a recommendation as to a negotiable instruments law and as to subjects we have discussed thoroughly before.

PRESIDENT DAVIS: There are six affirmative recommendations in that report.

MR. IRA E. ROBINSON: I move then as a substitute that the President of this Association appoint a Legislative Committee of three to attend during the session of the Legislature, at the expense of this Association. I want to say in that particular after hearing the discussion as to the publication of the syllabi of the Supreme Court decisions, why not eliminate that publication altogether—I mean the publication of the syllabi —and expend that money in directing legislation at the session of the Legislature.

PRESIDENT DAVIS: Thee Chair feels constrained to rule your motion out of order. It does not dispose of the pending report. The question before the house is in relation to the motion on the report of the Committee on Legislation. Mr. Snider has moved that that report be considered by sections and a motion to appoint a Legislative Committee would not dispose of the report.

MR. IRA E. ROBINSON: That is true, and I will withdraw my motion.

MR. E. D. TALBOTT: I move to amend Mr. Snider's motion by receiving the report of the committee and filing it, without action.

MR. M. F. SNIDER: I won't accept that amendment.

PRESIDENT DAVIS: The question is upon the substitute offered by Mr. Talbott, if it receives a second.

MR. GEORGE W. McCLINTIC: I second the motion.

PRESIDENT DAVIS: He moves as a substitute for the pending motion of Mr. Snider that the report of the committee be received and filed and the Chair will rule any debate out of order.

The question of agreeing to the substitute was put by the Chair and the same did not prevail.

PRESIDENT DAVIS: The question recurs upon the motion presented by Mr. Snider, to consider the report by sections.

The question being put by the Chair the motion was carried.

MR. C. W. OSENTON: I would like to inquire whether or not that motion carried with it the investigation by this body of the various bills and that they be read? Do I understand that to be the motion of the gentleman?

PRESIDENT DAVIS: The bills are part of the report. I presume the report could not be considered without considering all the exhibits. The motion made by Mr. Snider called for a consideration of the report by sections together with the bill covered by each section.

MR. W. P. HUBBARD: And the reading of the bill by sections? Is that the way we are to understand the Chair?

PRESIDENT DAVIS: Yes, sir; and the reading of the bill by sections. The understanding of the Chair is that the first subject in the report is the bill in regard to the marking of ballots, and it will be in order to read that portion of the report.

MR. CHARLES McCAMIC: I was going to suggest if you take up the report section by section it may not be necessary to read the bills.

MR. G. W. McCLINTIC: Oh, yes; it will be.

MR. O. S. MARSHALL: I think the matter could be shortened in this way: A primary election law is proposed here and there has been a bill prepared by Mr. Cooper. Of course this is a later production than the one prepared by Mr. McCamic several years ago, and that part could be left out.

PRESIDENT DAVIS: The gentleman will be in order when we reach that part of the report.

MR. C. W. OSENTON: I move that the report be laid upon the table.

PRESIDENT DAVIS: The President is in some doubt as to whether that motion is in order and whether it is not the same motion as that presented by Mr. Talbott.

MR. C. W. OSENTON: No, sir; as I understood Mr. Talbott's motion, a motion to lay on the table is in order.

PRESIDENT DAVIS: The Chair is of the opinion that the motion presented by Mr. Talbott—

MR. C. W. OSENTON: That motion was that it be received and filed, but to lay on the table is a postponement of the measure.

PRESIDENT DAVIS: The Chair is of opinion that the motion presented by Mr. Osenton is the same motion as that presented by Mr. Talbott. If there is a motion for an appeal from the ruling of the Chair, the Chair will entertain it.

MR. C. W. OSENTON: Then I move that the consideration of this report be indefinitely postponed.

PRESIDENT DAVIS: That motion is in order.

After having been duly seconded the question was propounded by the Chair and the motion did not prevail.

PRESIDENT DAVIS: It is in order to consider the first section of the report in relation to marking of ballots.

MR. W. W. BRANNON: Before we start into a consideration of these matters I desire to be understood as to my position. The president will remember that about two weeks before the beginning of our present session I found I was so situated with reference to certain proposed legislation, that it was not proper in my judgment for me to participate in the action of the committee, and I notified Mr. Price of my desire to be relieved from any connection with the committee because of those matters in which I was disqualified, as I thought they were of so much importance that there should be a full committee to have the whole subject in charge. It was late, but it was as early, however, as I found my connection with the subjects was such as to preclude me from acting. The committee insisted that I should serve with them as to the other matters, and I did so; but I desire it understood and would like the record to show that I did not participate in these matters relating to gas and oil. As to the bill in relation to the prevention of waste and the one concerning the pumping of gas out of the State, I would like the record to show that I did not participate in the action of the committee with regard to them. So far as those two matters are concerned I will say that I am so connected with a number of oil and gas companies in Lewis and other counties that I would not feel like having anything to do with those two subjects either as a member of the committee or of the Bar Association.

PRESIDENT DAVIS: It is in order to consider that section of the report in relation to the marking of ballots.

MR. GEORGE W. McCLINTIC: Are all of us who have any personal interest in any of these bills barred from passing on them? If so, I think there are a good many of us who will not be able to pass upon them.

PRESIDENT DAVIS: The Secretary will read the section of the report in relation to the marking of ballots.

At the request of the Secretary, Mr. Charles McCamic began the reading of the section of the report, pending which, on motion, the further reading thereof was dispensed with.

MR. CHARLES McCAMIC: Now, I presume it is in order to read the bill.

PRESIDENT DAVIS: Yes, sir.

MR. B. M. AMBLER: I move we dispense with the reading of that bill.

The motion was put by the Chair but did not prevail, and Mr. McCamic proceeded with the reading of the bill.

MR. C. M. MURPHY: I have some pronounced views on the methods of elections. I am opposed to that bill as proposed. I will venture the assertion now that except the committee who prepared the bill there is not a gentleman in this room who can go out and vote correctly.

MR. CHARLES McCAMIC: We will have to have voting schools and instruct the voters.

MR. C. M. MURPHY: If the object of the Bar Association is to establish voting schools we had better go out of the law business and go to establishing schools.

MR. CHARLES McCAMIC: Isn't it true that a great many cannot vote now under a law that has been in effect fourteen years?

MR. C. M. MURPHY: Yes, sir; for the reason that the law was so complicated that it even took a law student at the University two years to know how to vote it.

JUDGE JOHN W. MASON: How much intelligence does it require for a man to make a mark opposite the name of the person he desires to vote for?

MR. C. M. MURPHY: Well, that has been done, but in the first place what are they going to do if they do not know how to mark it?

JUDGE JOHN W. MASON: They could not vote, then.

MR. C. M. MURPHY: Exactly. The only qualification to vote in this country and in every free and enlightened country is to know who you are going to vote for and go and do it.

A MEMBER: And how to do it?

MR. C. M. MURPHY: And not have somebody tell you what to put on your ballot. That has been the trouble. How many have told you how to vote? I was in a re-count in Barbour county on the last election and I will venture the assertion that there was not a dozen correct ballots in the ballot boxes from the different precincts. Why, take this illustration: they did not scratch the head of the ticket; they scratched part of the ticket on one ticket and part on another. I believe that this method I am going to suggest is a better method than the one mentioned in that bill—that you ought to give a man his ballot two weeks before the election and let him go home and prepare it; then if somebody else fixes it up for him it would not be in any worse fix than it would be under the law as it is now.

A MEMBER: He could let his wife fix it for him.

MR. C. M. MURPHY: Yes, he could let his wife, father,

brother, uncle or any one else fix it for him. Under the present law, in deciding upon that question in two cases that we have, the Supreme Court could not tell how a man wanted to vote, and if the Supreme Court in its wisdom cannot tell, how in the name of common sense do you expect a poor fellow out in the country to do so? I am opposed to it. I believe in giving a man his ballot and letting him fix it as he believes it should be fixed, or have some one else fix it for him, and not let the politicians take charge of him, as they do in some of the counties of the State and especially in Kanawha county. I want to say, Mr. President, that my idea of the ballot—and I have been one of the ballot commissioners for several years in our county and have had some experience with it; I have gone through two or three re-counts in my own county and I have raised all kinds of exceptions and objections to ballots as voted by the voter, and I have done everything I could in my own feeble way to elect my candidate.

A MEMBER: And failed?

MR. C. M. MURPHY: Beg your pardon, I am entirely satisfied with my efforts in that direction. Mr. Chairman, I think the ballots instead of being printed side by side with a line between them should be printed side by side but so perforated that the voter may tear it off himself and take it in and vote it and leave the others with the clerk, and not vote four or five tickets. One of the difficulties in this way of voting is that you cannot tell upon which ticket the voter voted and you cannot tell the man you voted for. That was one of the difficulties in our county. I am terribly in earnest in my opposition to this bill.

MR. M. F. SNIDER: I have never thought very much upon the question of this ballot until I heard it read here but I do not have any trouble in understanding just what the voter has to do from the reading of it. There is only one thing in that whole bill that it seems to me there could be any question about, and that is the question as to whether or not a man who cannot read shall be prohibited from getting help from a clerk. I think that is a good bill, and I move that this Association adopt it and that it be recommended to the Legislature for passage.

JUDGE J. W. MASON: The object of that bill was to do that very thing,—get rid as nearly as possible of the poll clerk. I do not know anything personally about it but there is an understanding in our community and I have no doubt you have all heard of it elsewhere, that poll clerks are tampered with, and that men go into a room to vote who can neither read nor write, and as the poll clerks have been fixed, his ticket is made up according to the notion of the poll clerk and not of the voter himself, and there is no way of proving that. The man who

has voted—who has been in there and is supposed to have voted—can neither read nor write and does not know whether the ticket was made out as it was purported to have been made out. The other two men have done it and of course they will not tell and the voter is at the mercy of two men who may do wrong. The idea is to get rid of these ballot clerks. Let a sample ticket be circulated. My notion was originally to let a sample ticket be circulated a few days before the election, for that matter. Let the voter have it, and as some one said, take it home with him and consult his wife. If she is a good politician he can consult her about that matter.

MR. IRA E. ROBINSON: What will you do if she is a Prohibitionist?

JUDGE JOHN W. MASON: The way I do about election matters is to consult my wife and vote as I please. But seriously, the real object of that bill was to get rid of the ballot clerk. Now, we have no pet theory upon that subject at all. As far as I am concerned I am growing old and am getting substantially out of politics, but I want to see the elections just as nearly pure and fair as we can get them in our State. I view with great alarm the corruption of modern times. It has been increasing. Any bill, I do not care what it is, that will secure those ends I am in favor of.

MR. W. P. HUBBARD: The Association has considerable business to attend to that will be before it for its consideration, and judging from what has taken place it will take us a long while to discuss all the matters contained in this report and the bills filed in connection therewith; I therefore feel like moving to reconsider the vote taken providing that this matter be taken up by sections, and to move that the several bills mentioned in this report be laid by the President of this Association before the Legislature with the statement that each of them contain suggestions which this Association thinks are worthy of consideration. No matter what we may think about some of these suggestions, I think we can concur in that suggestion.

PRESIDENT DAVIS: I am of opinion that the motion would hardly be in order at this time, for there is a motion pending by Mr. Snider to specifically approve of the report under discussion.

MR. W. P. HUBBARD: There is certainly some way by which this Association, if it does not want to consider a particular item, can get rid of it.

PRESIDENT DAVIS: If you will permit the Chair to suggest, your motion may be proper as a substitute.

MR. W. P. HUBBARD: I will make it in that way, then.

PRESIDENT DAVIS: Is the substitute accepted? If not, a vote will be had upon it.

The substitute being accepted by Mr. Snider a vote was taken thereon and Mr. Hubbard's motion prevailed.

PRESIDENT DAVIS: I desire to call the attention of the Association to the fact that in the regular order of business we passed No. 15—the time and place for our next annual meeting—without fixing any time. The matter ought to be taken up and I would suggest the making of it a special order to an hour certain. ?

MR. T. P. JACOBS: I move we now take up that order of the selection of the time and place for the next annual meeting.

The motion was put by the Chair and carried.

On motion of Judge M. H. Willis, seconded by Mr. T. P. Jacobs, New Martinsville was selected as the place of the next meeting, and upon further motion the fixing of the time was delegated to the Executive Council.

On motion of Mr. M. F. Snider a recess was taken until 2 o'clock p. m.

SECOND DAY.—AFTERNOON SESSION.

The Association reassembled at 2:30 o'clock p. m.

PRESIDENT DAVIS: The next order of business is the report of the Committee on Banquet. Does the committee desire to submit a report?

MR. BOWERS: Mr. Dailey is chairman of that committee and he has not come in yet.

PRESIDENT DAVIS: With unanimous consent we will pass that and call it up later. Reports of special committees are in order. Is the committee on the "Torrens Land System" ready to report?

MR. T. P. JACOBS: Mr. President, the committee on the Torrens Land System is ready to report but the chairman is not here.

SECRETARY PETERKIN: I move we pass it until Professor Willey comes in.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: Is there any miscellaneous business that can be disposed of while we are waiting the arrival of these other gentlemen?

SECRETARY PETERKIN: There is one matter that oc-

curs to me which I suppose would come under this head. In the report of the Treasurer he called attention to the fact that under the present system one-fourth of the annual dues of the members is set aside for the use of "The Bar."

MR. J. L. WAMSLEY: Which bar?

SECRETARY PETERKIN: "The Bar"; but no part of the so-called initiation fee, payable the first year, has been so set apart. Out of the annual dues of four dollars—one dollar for each member is so set apart. I move that the Treasurer be instructed to set aside from the first year's dues, or the initiation fee which cover the first year's dues, the sum of one dollar for each member, and to see that it is appropriated to "The Bar".

PRESIDENT DAVIS: May I inquire, Mr. Peterkin, whether there wasn't such action taken at the last meeting?

SECRETARY PETERKIN: The Treasurer in his report of yesterday called attention to the matter. I do not think any action was taken upon it.

The motion was put by the Chair and carried.

PRESIDENT DAVIS: I observe, Judge Jacobs, that Mr. Willey is now present. The order of business is the report of the Committee on the Torrens Land System.

MR. W. P. WILLEY: Mr. President, that is all in print in the December number of "The Bar". It is a very lengthy report. It has been in the hands of the members of the Association for thirty days and I suppose anybody who is interested in it is familiar with it. Ie seems to me it would not be worth while to re-read it. I do not know whether the Association wants it read or not.

PRESIDENT DAVIS: What is the pleasure of the Association in that particular. Shall the report be read?

MR. M. H. WILLIS: I move you, sir, that the report be received and filed.

MR. W. W. BRANNON: I second that motion.

(For report see Appendix IX.)

MR. T. P. JACOBS: Mr. President, at the end of the bill found on page 63 of "The Bar" the members will observe a note which reads: "The two bills referred to in the above report for submitting the act to a vote of the people and to the Legislature are not printed here at this time but will be presented to the Bar Association with the full report." I do not know whether Professor Willey has those or not.

MR. W. P. WILLEY: I have them. If anybody wants to discuss that bill I move that it be referred to the Committee on Legislation with instructions to prepare an address setting forth the purposes of the bill, and present it to the Legislature with the endorsement of the Association and ask its adoption.

MR. MELVILLE PECK: I second the motion.

PRESIDENT DAVIS: Did you offer that motion as a substitute for the pending motion by Judge Willis? He has moved that the report be received and filed.

MR. W. P. WILLEY: I offer that as a substitute.

The substitute was accepted by Judge Willis.

PRESIDENT DAVIS: Is there any discussion on the motion presented by Professor Willey? He moves that the report of the Committee on the Torrens Land System be referred to the Committee on Legislation with instructions to prepare an address and submit the same, together with the bills to the Legislature for favorable action.

MR. T. P. JACOBS: Gentlemen, I do not desire to take any length of time of the Association to discuss this matter, nor am I thoroughly convinced of the propriety of any action at this time. It occurs to me that forcing this issue at this time means its defeat. I am morally certain if this measure is presented at this coming session of the Legislature it will be defeated. Now, if it should be desirable at any time to adopt the so-called Torrens Land System, in my judgment we have not reached that point and are not educated up to it, and if the friends of this measure force it at this time it means its defeat and possible destruction. It does occur to me in the present view and the present opinion of the profession that the profession is hardly ready yet to recommend it to the people of the State, and unless we are, it would be useless to take any action in that direction. It is no reflection on the bar of this State or any other to say that unless they have given this subject special attention they know but very little about it. Being a member of this committee, or of the original committee and continued upon the committee which has made this report, I have given a good deal of time to the consideration of the subject. I have read a great deal of literature upon the subject and I feel a good deal of confidence in stating that this report published in the December number of "The Bar" contains concisely and succinctly all the features of the so-called Torrens System, wherever they may come from. I say that without fear of any charge of egotism, whatever. If you will investigate all the literature that has been written on the subject I say that you will find that this report outlines the features of the system substantially as it is in connection with the bill presented. I might say that during the last three years I have honestly and faithfully spent as much time as I could spare in the investigation of the subject. I went into the investigation of it predisposed against the measure and for that reason I labored more assiduously to arrive at what I considered a just conclusion upon it; and I want to say

that I came out of the investigation with an opinion more deeply rooted than that entertained by me when I went into it.

Although a member of this committee I do not believe that the Torrens Land System—which means the measure presented by the committee—or any other system modelled after the Torrens Land System, can be adopted in the State of West Virginia so as to answer any good or practical purpose. Now, in the first place, the item of expense is an exceedingly important one. Those of you who have given attention to this subject recognize the fact that the essential feature of the Torrens Land System, and the primary feature in it—in puting land under the Torrens Land System—is the judicial ascertainment of the title first—and that is done in all systems practically by what is really an equity suit—to remove cloud from title, to settle title, to judicially ascertain in whom the title is. This means a suit; it means adversary proceedings; conclusive proceedings. Now, what does it mean to prosecute at any time an ordinary suit to quiet title? It means costs, expenses and counsel fees. Let's see in a small way just what that means. In my county of Wetzel there are in round figures eight thousand separate and different tracts of real estate owned by so many different real estate owners. Now, what is it going to cost you to go through a course of litigation to put your farm or town lot under the Torrens Land System and register the title? What does it cost ordinarily to prosecute an Equity suit? We will say twenty-five dollars—I am sure you will laugh at that. Say it would cost twenty-five dollars to bring a suit to quiet your title and register your title. That would make a cost to the people of my own county, at twenty-five dollars a suit, which is a minimum sum—of two hundred thousand dollars. Or say you could prosecute your suit and pay all the expenses of publications, commissions, reports and all those kind of things, for thirty dollars, including counsel fees.

MR. C. W. DAILEY: It would cost nearly one hundred dollars.

MR. T. P. JACOBS: I think it would but I am getting it as low as I can. At thirty dollars it would cost the people of Wetzel county two hundred and forty thousand dollars to institute the system. The committee in its report finds that a hundred dollars would be a minimum charge for registering the title. Multiply your eight thousand titles by one hundred and what does that mean in the way of expenses? Now, it may very well be that sometime in the future the people of West Virginia would conclude that they would like to have this system adopted, but I think it is as morally certain today as any moral fact can be certain that the Legislature would bury forever such a pro-

posed act of legislation, and I think, therefore, it would be a waste of time to present it to the Legislature. And not only so; if that were done, and the subject matter buried, it would be eliminated from consideration for possibly all future time. Now, if it is a live subject,—and there are a good many people who are members of this Association who do believe in the virtue of this system—if it be a live subject let us not commit it yet to the Legislature, but let's simply file the report and defer the matter for future consideration. It may be taken up at any time. Without any assumption, or boasting, whatever, or egotism, I will say that you cannot get a report from any body of men—in this Association or any other—that will more succinctly and clearly outline the features of the system than this report. The Gentlemen on that committee have spent a good deal of time and have conscientiously gone into the subject matter, and there it is in a nut-shall. Now, if we simply receive and file this report we have it in a brief but comprehensive form, and we may take it up at any future meeting and there consider and adopt it; but before we can undertake, with any hope of success, this or any other radical system, we must have not only the profession but the people educated up to that point. I repeat that it is as absolutely certain that you cannot get this system adopted this winter by the Legislature as any moral question can be certain.

A MEMBER: Do I understand it to be your opinion that it requires a suit to clear the title under that system?

MR. T. P. JACOBS: Yes, indeed. You cannot register a title unless you first judicially determine the quality of that title. You must cut off everybody else's claim to it. You must in other words find out who owns that title beyond a preadventure of doubt, and that must be done by judicial proceedings, and then you must have it registered. It requires a suit; and the cheapest kind of a suit, you cannot get through with for less than one hundred dollars. It means an overwhelming private expenditure by the people of the State, beyond measure. I want to say that it would cost the people of this State in their private capacity a million dollars.

MR. MURPHY: Does the bill provide that the land owners *must* register the title?

MR. T. P. JACOBS: This bill does not; that would be a question for the Legislature.

MR. MURPHY: Excuse me; if I understand that bill it means that any one who wants a title registered must quiet the title by some judicial proceedings as that is the only way it can be done, but that parties who do not care to register their title may leave it—

MR. T. P. JACOBS: The bill has nothing to do with that. The Legislature that adopts the bill may make it compulsory or optional.

MR. W. P. HUBBARD: As this bill is drawn it makes it merely permissive and not compulsory.

MR. T. P. JACOBS: Permissive, yes. There is, however, a separate bill providing for the submission of it to the people of the various counties, following in that respect the law of Illinois.

Now right in that line one other thought. The lawyers of Illinois express the opinion that it leads to inextricable confusion to make it optional or permissive. It ought to be put one way or the other. It ought to be compulsory or not adopted; and I concur in that view of it. As I say, if we want to continue this matter for further investigation and further thought and have further education in the matter, the way to do it is simply to table it or simply receive the report and file it and it can be brought up at any future time; but at this time the law makers are not educated up to a point to adopt it. They simply won't do it. Now, I don't make these remarks because I am opposed to the measure, for I have worked upon this committee conscientiously being opposed to the measure from the start; yet with a conscientious purpose and desire to find out about it all I could and to determine its merits and demerits, and I came out of the investigation more than convinced that it is not the thing to adopt yet. It may be in the future but I doubt it. If we want to look into the matter further why not just receive the report and leave the future consideration of it for a future time?

MR. W. P. WILLEY: I am of the same opinion as Judge Jacobs in regard to the matter of having the bills presented to the Legislature—that is to say as to the character of the reception they probably would receive from the Legislature. I do not suppose that the Legislature is going to shut its eyes and open its mouth and receive any bill or measure that we present there, simply because we present it. There is no danger of precipitant action on the part of the Legislature in adopting it and yet I believe that if this Association should decide to so far endorse the proposition as to present it to the Legislature, that that would be making time towards educating the people of the State —the leading men of the State,—in the merits and demerits of the measure. I realize the situation just as Judge Jacobs expresses it,—that the committee are all not ready to pass judgment—conclusive judgment—upon either the merits or demerits of the Torrens Land System, because it requires study; but this is the coming system in my opinion. I do not believe there is

any other State in the Union that needs it more than West Virginia. I think any proposition that proposes the adding of millions of dollars to the commercial assets, so to speak, of this State, does not want to be cast aside, and that I believe would be the direct effect of the adoption of the Torrens System.

Now, Judge Jacobs spoke of the cost—the cost to Wetzel county and the cost to the State of West Virginia by the adoption of this system. I hold in my hand a printed leaflet of instructions issued by the Registrar of Illinois, where they have the same system substantially that we have presented here. Now, these are the instructions that are issued there by the Registrar to the people who want to profit by this system by having their titles registered. The total cost under that system is this:

Clerk of the court on filing application....	$ 5.00
Registrar, for examining title	15.00
Publication of notice	2.00
Registrar on issuing of certificate.....	2.00
Making a total of	$24.00

That is the extreme limit for the work of registering the title and making the title conclusive to the owner. Now, then, a couple of men who are officers and who are regularly employed, are under this system the examiners of titles. They simply examine the titles and present their work to the court and the court passes upon it, whether it is a *prima facie* and good title, and then that is held up for two years, or at least it is open for attack for two years, and then it becomes final and everybody is estopped from attacking that title thereafter.

This is the simplest in its operation, it seems to me, of any system of land titles that can possible be devised, and is so recognized where it is in operation. It is not complicated at all. The only trouble is the fact that it is new. Now, I do not want to discuss this, because this Association at this time does not want to hear a lengthy discussion upon the merits of this measure. The only question it seems to me is whether this Association is willing to send this with its *quasi* approval to the Legislature for their consideration, or whether we shall further consider it in the Bar Association. I am willing to take the judgment of the Association on that.

MR. C. W. DAILEY: I read very carefully the report of the committee submitting this bill to this body, as I found it published in "The Bar", and I saw clearly in the report, by reading a little between the lines, that the committee did not favor the adoption of this as a law in the State of West Virginia. I then proceeded to read the bill pretty carefully to see

whether the conclusions of the committee were correct and I decided that they were. Now, I understand, as Judge Jacobs has told us, that the very first step in these proceedings is a suit in chancery to settle the title. Isn't that true?

JUDGE T. P. JACOBS: Absolutely.

MR. C. W. DAILEY: Absolutely; and when that is done the title is adjudged to be in the plaintiff in that proceeding; then he registers it, and then comes the costs that Mr. Willey has given us; but he omits from the total cost the whole cost of this original suit to quiet the title—if I am right, and if Judge Jacobs is right; I might be mistaken myself but I do not think he is in this case—then, he omits to remember the further fact that the report which he signed suggests this idea that the initial suit being intended to settle the title, that that suit will practically be renewed at every transfer of the property; but we will say it operates to convey the title that the Registrar or Clerk of the court, acting as a judicial officer, may think it conveys; and when I come to read the bill I find that practically to be true. There is a commissioner appointed, or rather the case in the first place, under the bill proposed, is referred to one of the commissioners of the court; he goes through the title and reports upon it and then of course that report is returned to the court and it is approved. Now, the bill, as I remember,—and Judge Jacobs may correct me if I am wrong—provides that after every transfer and after the Registrar or Clerk, who is *ex-officio* Registrar, has decided just what title or interest passes by that deed or conveyance, it must go to this commissioner who must give notice to all parties interested or concerned, and he ascertains the facts and passes upon the title. After he has passed upon it and decided that matter, within a certain length of time it can be taken to the Court of Appeals to be passed upon by the court again so as to make the ascertainment of that title valid and binding.

Now, I want to admit that I cannot see any advantage in this bill; I do not see where it comes in; and if I understand the report correctly and the bill correctly, the judicial ascertainment made by the Registrar whenever a conveyance is made as to what title passes, amounts to nothing. It is not binding upon any one until the proceeding goes through the commissioner's hands and then possibly through the court. Now, there are difficulties all the way through. I think there are more complications about it than there are about our present system. Now, Mr. President, it seems to me to be admitted even by Mr. Willey that this bill would be defeated if submitted to the coming Legislature. I do not believe the State would be ready for it for years, and I would suggest that by the time the State would be ready for

this bill the titles would be practically settled to all lands in the State and there would be no necessity for this system.

MR. W. P. WILLEY: The opponents of this measure seem to have had their innings today, and I suppose that this Bar Association is very much in the same condition that the Legislature would be if this matter were presented to the Legislature. I was afraid of my own motion when I made it but I did not know exactly what other motion to make. I think if the Bar Association was ready to adopt it, all right. I believe I am more in favor of the original motion of receiving or filing this report, as the case may be, so that we can take it up at the next meeting of the Bar Association, and with the consent of my second I will withdraw my motion and let the original motion pass.

PRESIDENT DAVIS: I do not remember who seconded your motion but we will assume that he assents. The question is upon the motion of Judge Willis to receive and file the report of the Committee on the Torrens Land System.

The question being propounded by the Chair the motion prevailed.

Mr. John Bassel: A committee was appointed on yesterday to report on the subject of the necessary and proper qualifications of candidates for admission to the bar. We have prepared rather an informal report as to the sense of the Association and I will submit it now if it is in order.

PRESIDENT DAVIS: If you will defer that just one moment it will be reached in regular order. The next in regular order is the report of the Committee on Uniformity of Legislation.

SECRETARY PETERKIN: Mr. Van Winkle, who constitutes the committee on that subject, and is also a member of the committee on Uniformity of Legislation of the American Bar Association, has sent me a report which is very short and I will read it.

(Secretary reads report. See Appendix X.)

PRESIDENT DAVIS: You have heard the report. What will you do with it?

SECRETARY PETERKIN: I move that the report be received, its recommendations adopted and that the committee be continued.

MR. G. W. McCLINTIC: I second the motion.

The question being put by the Chair the motion prevailed.

PRESIDENT DAVIS: The report of other special committees. Under that head I might suggest that it would be proper for Mr. Bassel to come in with his report.

MR. JOHN BASSEL: I will ask now to pass the recom-

mendations we have made to the Secretary and will kindly request him to read them.

The Secretary read the recommendations of the Committee as follows:—

"The West Virginia Bar Association hereby declares its unqualified judgment in favor of such a standard of educational requirements for admission to the Bar as will comport with membership in a learned profession. In this day of free schools and other educational facilities such a requirement is no hardship to the candidate and is in harmony with the spirit of the age. We recommend that a specific academic requirement shall be included in the rules and regulations which the Supreme Court of Appeals is authorized to prescribe for admission to the bar, and if in the judgment of the Court the existing statute does not authorize such academic requirements; then the Committee on Legislation after conference with said Court, shall prepare and cause to be introduced at the coming session of the Legislature an amendment enlarging the powers of said Court, and this matter is committed to the Committee on Legislation with direction to carry out the purpose of the Association in this regard."

PRESIDENT DAVIS: You have heard the resolution offered by your special committee. What is the pleasure of the Association?

MR. W. B. MATHEWS: I move its adoption.

The motion being seconded, the question was put by the Chair and the resolution was adopted.

MR. C. W. OSENTON: I desire to make a report of the committee appointed by the Chair on yesterday, to audit the accounts of the Treasurer. We have had some trouble with this committee. Chairman Smith was called home by illness and the other member and myself each wanted to be chairman, and we could not agree, so it became necessary to enlarge that committee and we did so by selecting Judge Moore, of New York and Mr. Andy Price, President of the First National Bank, of Marlington, and we went into the accounts of the Treasurer last night—in fact it took us nearly all night to complete our labors, (laughter) and I regret to say that the other member of the committee—Mr. Alexander—asked me to make this report. Mr. Price should have been here after dinner but he was unable to be here for some cause, (laughter) and Judge Moore insists that this committee report that we found the accounts of the Treasurer in good shape and that they should be approved; and we also ask the Chair to discharge this committee and appoint one to audit our accounts.

PRESIDENT DAVIS: You have heard the report of the committee. What is your pleasure?

MR. IRA E. ROBINSON: I move that the report be received and filed.

The question being put by the Chair, the motion prevailed.

PRESIDENT DAVIS: Are there any other special committees to report? If there are no special committees to report, next in order is the report of the Delegates to the American Bar Association.

JUDGE ROBERT W. DAILEY: None of the delegates who attended seem to be present, and I wish to make my excuse. I was not unmindful of the honor conferred upon me, and I wanted to attend the Association but could not go owing to public duties. I have never been able since I have been on the bench, some fifteen years, to attend meetings of this kind. In this instance I was caught in the midst of a term of my court while that Association was in session, and therefore I was unable to attend.

PRESIDENT DAVIS: Next in regular order, gentlemen, is the question assigned for discussion—No. 27. "Would it be advisable to amend Chapter 125 of the Code so as to provide two Rule Days in each month?"

MR. G. W. McCLINTIC: I would suggest that unless some one wants to discuss that topic that we go back and take from the table that part of Mr. Ambler's report relating to the over-worked Supreme Court of Appeals. I think we ought to bring that up and see if there is anything this Association can devise by which we can increase the number of members of the Supreme Court, for relief, as advised in that report, and I move we take from the table that part of the report of the Committee on Judicial Administration and Legal Reform.

The motion was put by the Chair and the same prevailed.

MR. G. W. McCLINTIC: I would suggest that the Secretary read that portion of the report.

The Secretary read from Part III of the report (see Appendix V).

MR. G. W. McCLINTIC: I desire to offer the following resolution:

"RESOLVED, That this Association favor an increase of the number of judges of the Supreme Court of Appeals from five to seven."

And in support of that resolution I want to state that the situation is growing more acute all the time and the court is taking a method or way of settling the matter that to my mind is very wrong. They are looking into the records, as they say, more closely, and they say further that they have to see that there is error in each case and know that there is error in each case before they will grant an appeal, and in doing that it looks

to me that they are applying the rule, as has heretofore been stated, entirely too close. They are refusing appeals in all sorts of cases and they give the excuse that they cannot keep up with the work unless they do it. You will notice from that report that they refused appeals last year in probably one hundred and fifteen cases. That means that there were one hundred and fifteen separate records presented to this court on which they declined to grant appeals. I have often heard it stated by some of the members of the court that they thought that this thing was being carried too far, and it is for this reason that I offer this resolution.

PRESIDENT DAVIS: You have heard the resolution offered by Mr. McClintic. Are you ready for the question?

MR. B. M. AMBLER: Wait a minute.

MR. IRA E. ROBINSON: This is an important subject to vote upon without further consideration. I see in the rear my friend Judge Dent, who has had an experience of twelve years upon the Supreme Court bench, and I think the Association will be glad to hear from him upon the subject. I say it is too important a thing to be voted upon with simply George McClintic's speech back of it, and his opinion. Let us get something that is practically official. Judge Dent's experience ought to tell us whether these judges are really over-worked, as they claim they are. It has only been a short time since the Legislature gave them additional help in the way of increased salary and a stenographer for them. I am not opposed to the resolution and I will say frankly that I do not know enough about the situation to be opposed to it, but I think we ought to know more about it before we pass upon such a recommendation, especially at this time.

PRESIDENT DAVIS: Is Judge Dent in the hall, and does he desire to be heard.

JUDGE M. H. DENT: I have nothing to say on this subject and do not care to enter into a discussion of it.

JUDGE J. W. MASON: I am well satisfied that some relief should be given to that court. Now, I am not sure as to what form it ought to be under. I haven't any well developed theory of my own. My idea has been that we should have an intermediary court, but I am not wedded to any theory at all or to any particular system. I am informed that in the session of the court that has just adjourned, it handed down about seventy-seven cases in fifty days. Well, that is too much work for five men to do. If it is the wisdom of the Bar Association that it is a better plan to increase the number of judges rather than to establish an intermediary court, well and good; but my judgment is that something should be done to relieve the situation. I

certainly have no objection to the motion that has been made. As I have stated, I favor an intermediary court but am free to say that there are objections to it. In the first place the fewer courts you have the better. Of course you could make an intermediary court, and that would be my idea. Take an intermediary court and make its jurisdiction about what the Supreme Court is now; then only allow a limited number of appeals from that court so that there would be a much less number of cases to be disposed of finally by the Supreme Court. But, as I say, there is some objection; it is adding an additional court; and I have no objection really to the resolution.

MR. B. M. AMBLER: I would suggest that there must be some of the members of the Association here who have discussed this matter perhaps with some of the members of the court, and they might give us some idea of what they think about it. They know where the shoe pinches. Does anybody know of any suggestion made by the court?

MR. G. W. McCLINTIC: They simply ask for relief; they do not make any particular suggestion.

After further discussion of the subject the question recurred upon the resolution offered by Mr. McClintic, and the same being put by the Chair the resolution was adopted.

MR. G. W. McCLINTIC: I move that the Committee on Legislation be directed to present that resolution to the Legislature and do all in its power to pass it, in proper form.

The question being put by the Chair the motion prevailed.

SECRETARY PETERKIN: I have a communication from the Secretary of the West Virginia Board of Trade, addressed to me, as Secretary of the State Bar Association, which I will read.

The Secretary read a communication from Mr. Naylor, Secretary of the West Virginia Board of Trade, inviting the Association to become a member of the Board of Trade.

MR. WM. B. MATHEWS moved that the invitation be accepted.

The Secretary was requested to read, and read, Section 2 of the Constitution of the Bar Association.

MR. J. W. VANDERVORT: In view of the provisions contained in our constitution I move that this Association authorize the Secretary to thank the State Board of Trade for the invitation they have given us, and to state that according to the constitution of our Association it will be impossible for this Association to become a member of that body.

The motion was put by the Chair and prevailed.

The question, "Would it be advisable to amend Chapter 125 of the Code so as to provide for two Rule Days in each Month?"

was then taken up and discussed, but the Association did not take any action in regard to the matter.

PRESIDENT DAVIS: There is no other business before the house. Will the Secretary report the appointment of the standing committees by the incoming president, which have been approved by the Executive Council as the constitution provides?

The Secretary read the Standing Committees as appointed. (See list supra).

MR. W. W. BRANNON: We have said a good deal for the relief of the Supreme Court of Appeals. Now, I believe we should do something for the relief of lawyers practicing in both courts. I believe much relief would be afforded us by reducing the number of terms in each county from four to three, and I have a resolution which is very short, which I desire to offer on that subject:

RESOLVED, That it is the sense of this Association that there should be only three regular terms of the Circuit Court in each county in this State, and recommend that such legislation be enacted as may be necessary on that subject.

After some discussion the resolution was adopted.

MR. B. M. AMBLER: Mr. President, I ask unanimous consent to offer the following resolution and I call for a rising vote.

RESOLVED, That the thanks of the West Virginia Bar Association are hereby tendered to the members of the Elkins bar, and to their special committees for the many kindnesses and hospitalities; to the press for their interest and favorable notices of our work; and to all others who have contributed to the enjoyment of this session; also to the railroad for the courtesies they have extended to us.

The resolution was adopted by a rising vote.

MR. JOHN T. McGRAW: Under the head of miscellaneous business I want to suggest to the Association that either its Committee on Legal Biography or some other committee to be raised by it, should take some steps looking to the preparation of a history of the Bench and Bar in the counties of Virginia now comprising the State of West Virginia. It seems to me that the opportunities for preparing such a work are rapidly passing away. The incidents connected with the early history of the bar of this State have been in the possession of the older members and it seems to me, sir, that this Association could not perform a higher public duty than to preserve for the benefit, if not of the present generation, of future generations, a history of the men who composed the Bench and Bar of the mountain counties of the old commonwealth of Virginia. This sugges-

tion is based upon the idea that a volume of this character could not successfully be prepared by any one man because the number of people who would subscribe for the work when completed would be necessarily limited, and without the assistance of the Bar Association or some other Association that would contribute largely to its cost and expenses, it could not be done. I know that in the county of Taylor and other counties of the State there are some people who would be glad to write up some interesting reminiscences and aid in the preparation of the history—a history of those composing both the bench and bar of these counties. I see Judge Mason here who could do it and here is Mr. Bassel of Harrison, and others, who would also be able to contribute entertainingly to a work of that kind. If this work had been undertaken earlier in the history of this Association it would have been better, because there have passed away such men as Samuel Woods, John Brannon, William A. Quarrier and others. I move that a committee on the preparation of a history of the Bench and Bar of West Virginia, consisting of five persons be appointed by the President of this Association, of which the Secretary of the Association shall be the chairman; and further that the members of this Association be requested to contribute the sum of $10.00 each to a fund to be devoted to defraying the expenses of getting up this history.

PRESIDENT DAVIS: The motion of Mr. McGraw, as the Chair understands it, is that a special committee of five persons be appointed by the President, of which the Secretary shall be ex-officio chairman, to which shall be committed the preparation of the history referred to, with instructions to proceed forthwith; and there shall be a further request made that each member of the Association contribute ten dollars to a fund to be raised for that purpose. Do I state it correctly?

MR. JOHN T. McGRAW: Yes, sir.

The question being propounded by the chair the motion was carried.

The President later appointed as such committee, in addition to the Secretary, Messrs. Jno. T. McGraw, J. W. Vandervort, Jno. W. Mason and Wm. B. Mathews.

MR. W. P. WILLEY: I move that it be the sense of this Association that if any member of this Association so desires, that he shall run through "The Bar" in serial numbers any reminiscences he may prepare as part of the work contributed by him to the making up of this volume.—Carried.

On motion of Mr. O. S. Marshall the Association adjourned, *sine die.*

APPENDIX.

APPENDIX I.

(Address of President John W. Davis.)

The Growth of the Commerce Clause.

Gentlemen of the West Virginia Bar Association:—

At your meeting held two years ago, you amended your Constitution in Article Eight thereof, by providing not only that your president should deliver an address at the annual meeting next following his election, but that his address should "discuss matters of special interest to the people of this State, arising upon legislation enacted and decisions rendered". It may be that the use of the past tense in speaking of "legislation enacted and decisions rendered", signified the intention of the Association to reserve in the person of its president the vicarious privilege of the last word—leaving to the legislature or to the Court only the barren prerogative of the last guess. Most of us at one time or another have felt that it would be a keen gratification to have some one with the gift of tongues express in chosen phrase our sentiments in relation to "legislation enacted" and our feeling toward "decisions rendered". But aside from this phase of the amendment, I take it that it had a more specific purpose and that it was intended to limit your succeeding presidents to the topic of most importance presented by the legislation or decisions of the current year. I have accepted its mandate in this sense.

Under the profound conviction that our entire system of government both State and Federal is entering upon the third great test of its history, with the belief that the questions now arising are scarcely second in importance to those around which the battle of secession raged, and conscious of the fact that they appeal peculiarly to the lawyers of the country for their solution, I have chosen to call your attention this morning to a phenomenon without parallel, as I believe, in constitutional history. I refer to the growth of the Commerce clause of the Federal Constitution. It has been well said that it "presents the remarkable instance of a national power which was comparatively unimportant for eighty years, and which in the last thirty has been so developed that it is now in its nationalizing tendency perhaps the most important and conspicu-

ous power possessed by the Federal Government." I do not hope in the scope of an address such as this to discuss at length so great a subject, nor is it my intent to decide between the conflicting views as to the extent to which this power should be driven. I propose only to call attention to the facts as legislative and judicial history records them, leaving it to you, gentlemen of the bar, to carry forward the study from that point. The story is one of constant advance, steady, persistent and apparently irresistiable.

Charles Pinckney's draft of a proposed Constitution submitted to the Convention on the 29th day of May, 1787, and referred by it to its Committee on Detail on the 26th day of July following, contains the clause substantially in its present form. It provides that "the Legislature of the United States shall have power to regulate commerce with all nations, and among the several States." (1 Elliott 147). As finally reported from the Committee on Revision it read "To regulate commerce with foreign nations, among the several states, and with Indian tribes." How slight the change will be at once perceived. Perhaps the form of no other clause of the whole instrument received so little debate, except upon the question as to the number of votes—whether two-thirds or a bare majority—necessary to the passage of an act under it. It was well understood that the moving causes for strengthening the Confederacy were the desire for strength abroad and harmony at home—the former menaced by internal jealousies, which had their chief source in discriminating regulations of the several states upon the commerce of their neighbors. Common consent therefore vested in the new government control of these trade regulations. In all the discussions of the Federalist, this subject is adverted to but three times, (See papers VII, XXII, and XLI) in each instance only to point out the necessity for free trade between the several states. The evil and the danger are summed up in these words —"The interfering and unneighborly relations of some states, contrary to the true spirit of the Union, have in different instances, given just cause of umbrage and complaint to others; and it is to be feared that examples of this nature, if not restrained by a national control, would be multiplied and extended till they become not less serious sources of animosity and discord, than injurious impediments to the intercourse between the different parts of the Confederacy. 'The Commerce of the German Empire is in continual trammels, from the multiplicity of duties which the several princes and States exact upon the merchandises passing through their territories; by means of which the fine streams and navigable rivers with which Germany is so happily watered are rendered almost useless.' Though the genius of the people of this country might never permit this

description to be strictly applicable to us, yet we may reasonably expect from the gradual conflicts of State regulations, that the citizens of each would at length come to be considered and treated by the others in no better light than that of foreigners and aliens."

Edmund Randolph of Virginia in offering his resolutions to the Convention for debate "candidly confessed that they were not intended for a Federal Government—he meant a strong, consolidated Union, in which the idea of states should be nearly annihilated"—(Yates' Minutes—May 29th, 1787). And yet when called upon as Attorney General, in the year 1791, to give to President Washington his opinion on the United States Bank Bill, he says that the powers of Congress over commerce among the States "are little more than to establish the forms of commercial intercourse between the States, and to keep the prohibitions which the Constitution imposes on that intercourse undiminished in their operation; that is to prevent taxes on imports or exports; preferences to one port over another, by any regulation of commerce or revenues; and duties upon the entering or clearing of the vessels of one State in the ports of another." (Prentice & Egan Com. Clause p. 12). Such was the view of this power and of the scope of the Constitution entertained by the men who framed it.

Not until the year 1824, a third of a century later, did the clause become the subject of judicial construction. In that year the great case of Gibbons v. Ogden was decided, and the Chief Justice laid down the rules which have ever since prevailed. At this distance we can hardly believe that there could have been serious contention upon the law of the case. The State of New York had granted to Livingston and Fulton and their assigns the exclusive right to navigate the waters of the State with vessels propelled by fire or steam, and it was sought to sustain this exclusive grant as against vessels licensed under the laws of the United States for carrying on the coasting trade on the ground that navigation is not commerce. That the New York Statute should be held void as repugnant to the commerce clause of the Constitution, can occasion no surprise; but the broad and comprehensive language useed in the opinion itself has been cited as authority for each successive extension of the Federal power. Said the Chief Justice—"Commerce undoubtedly is traffic, but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse. * * * * * This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

* * If, as has always been understood, the sovereignty of Congress though limited to specific objects, is plenary as to those objects, the power over commerce with foreign nations, and among the several States, is vested in Congress as absolutely as it would be in a single government, having in its Constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States." Compare this sweeping language with that used by Attorney General Randolph in 1791; albeit in the specific instance the power of the Federal Government is clear even under Randolph's definition. It was of this case that Mr. Justice Wayne in a later opinion (Passenger Cases 7 How. 283) declared that "It will always be a high and honorable proof of the eminence of the American Bar of that day, and of the talents and distinguished ability of the judges who were in the place we now occupy."

This decision was re-affirmed in the case of Brown v. Maryland, 12 Wheat 419, in which the Chief Justice again declared that the grant of power is as extensive as the mischief, and comprehends all foreign commerce, and all commerce among the States; that the power is complete in itself, and acknowledges no limitations other than those prescribed by the Constitution; that commerce is intercourse, and one of its most ordinary ingredients is traffic. On these two decisions hang all of the law as outlined in later opinions and statutes; and all of the prophets of today who are foretelling the law of tomorrow. One cannot help wondering what might have been the result had the language used been less sweeping.

NAVIGABLE WATERS.

The power of Congress to regulate navigation is not wholly derived from the power to regulate commerce, but may be derived from the double sources of the commercial and the admiralty power—in some cases from one power, and in other cases from both. (U. S. v. Burlington &c. Ferry Co., 21 Fed. 339). So that an illustration drawn from the decisions in regard to the maritime power of the Federal Courts as also to that of Congress upon navigable waters may be out of place in a discussion restricted to the commerce clause alone. And yet in these decisions may be found an illustration of the process which it is the purpose of this paper to describe, which is too striking to be lost.

In 1825, the question of the extent of the maritime jurisdiction was first raised; and it was held to extend only to voyages substantially upon the seas or within the ebb and flow of the tide; although the Court put as a quere the power of

Congress to extend it by statute to the Western waters. The Thomas Jefferson, 10 Wheat 428.

In 1851, the case of The Genesee Chief, 12 How. 443, overruled this decision and reld constitutional the act of Congress of 1845, extending the judicial power to the Great Lakes; not however by virtue of the commerce clause, but because the Lakes were properly subject to admiralty jurisdiction.

In 1857, in the case of the Magnolia, 20 How. 296, having relation to the Alabama River, lying wholly within that State, the jurisdiction was still further extended to embrace all navigable rivers, whether above or below the ebb and flow of tide, and whether wholly within a State or not. The Court was divided and the vigor of the dissent may be gathered from the following language used by Mr. Justice Daniel in his opinion:

"Under this new regime, the hand of Federal power may be thrust into everything, even into a vegetable or fruit basket; and there is no production of the farm, the orchard or garden on the margin of these water-courses, which is not liable to be arrested on its way to the next market town by the high admiralty power with all its parade of appendage; and the simple, plain, homely countryman, who imagined he had some comprehension of his rights, and their remedies under the cognizance of a justice of the peace, or of a county court, is now through the instrumentality of some apt fomenter of trouble, metamorphosed and magnified from a country attorney into a proctor, to be confounded and put to silence by a learned display from Roccus de Navibus, Emerigon or Pardessus, from the Mare Clausum, or from the Trinity Masters, or the Apostles."

But both majority and minority of the court concurred in the expression that the jurisdiction could not be extended to canals built within a State.

In 1870, in the case of the Daniel Ball, 10 Wall. 557, the acts in relation to vessel license and inspection were held to apply to all rivers navigable in fact, although they might lie wholly within a State, if only by forming a junction with others they became part of a continuous highway. And in 1874, in the case of the Montello, 20 Wall. 430, this same ruling was repeated, even as to rivers where the continuous navigation might be broken by falls or portages, or by locks and dame.

But in the year 1903, the case of The Robert W. Parsons, 191 U. S. 17, held that repairs made to a canal boat, which plied wholly within the State of New York on the Erie Canal and by towage on the Hudson River, the canal being wholly within the State of New York, and built by it, and the boat at the time of the repairs being on land in dry dock, were matters for the Federal Admiralty jurisdiction; and a statute of New York giving a lien for such repairs, enforceable in the courts of that

State was held an unconstitutional infringement of the Federal jurisdiction and therefore void. I may add that when the case had reached a decision the lien was lost by lapse of time, and what became of the poor repairer the record does not state. Justices Brewer, Harlan, Fuller and Peckham dissented, and the following quotation from the dissenting opinion reads like an echo from the opinion of Justice Daniel forty-six years before, in the case of the Magnolia.

"Why should we be so anxious" says Justice Brewer, "to drive parties having small claims away from their local courts to courts not infrequently held at a great distance? Why should we be so anxious to force litigants into a court where there is no constitutional right to a trial by jury? I, for one, believe that the right of trial by jury is not to be taken away from a claimant unless it be in a case coming clearly within the well established limits of equity and admiralty cases. I do not like to see these provisions which have so long been the boast of our Anglo-Saxon system of procedure frittered away by either legislative or judicial action."

So although nearly eighty years were occupied in the journey, the Federal maritime power at last travelled from the high seas and the ebb and flow of the tides, to the raging billows and majestic galleons of the Erie Canal. Shall we be surprised if we discover similar progress made by land?

RAILROADS.

The first attempt on the part of Congress to exercise this power towards transportation by land is believed to be in the incorporation of the Pacific Land Grant Railroads in the year 1862. But in the year 1866, by the Act of June 15th, since incorporated in the Revised Statutes as Section 5258, the first general regulation was attempted. It is worth while by way of comparison to observe just what this Act was. It was entitled in its preamble:—

"Whereas the Constitution of the United States confers upon Congress in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies"—and it continued as follows:—

"Every railroad company in the United States, whose road is operated by steam, its successors and assigns, is hereby authorized to carry upon and over its road, boats, bridges and ferries, all passengers, troops, government supplies, mails, freight and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination. — — — This

section shall not be construed to authorize any railroad company to build any new road or any connection with another road, without authority from the State in which such railroad or connection shall be proposed." In brief then this Act authorized steam railroads to carry for hire, and to connect with other lines so as to form continuous lines—but by and with the authority of the State in which such connection might be made. Surely here was no broad assumption of power; and yet for even this modest enactment, Congress feels called upon to vouch in the premable in semi-apologetic manner, the constitutional grant of power to regulate commerce among the states.

"The purpose of this Act, as declared by the Supreme Court, was to remove trammels upon transportation which had previously existed, and to prevent the creation of such trammels in the future, and also to be a declaration by Congress in favor of the great policy of continuous lines, and therefore as favoring such business arrangements between companies as would make such connections effective, and as indicating an intent that interstate commercial intercourse should be free." (Judson Int. Com. 51).

It may be questioned whether the Act goes so far, but for our present purposes it is sufficient to say, that here at last was the nose of the camel fairly through the door.

In our own State this statute has been construed in the case of Wall v. N. & W. R. R. Co., 52 W. Va. 485, and held by its declaration of the national public policy of continuous interstate transportation, to prevent an attachment levy upon the cars of one company when in the possession of a connecting company in another State.

Twenty-one years elapsed before any further legislation. In the meantime the public demand for regulation of rates and railroad service was steadily growing, culminating in many of the States in the formation of railroad Commissions and the "Granger legislation." The State of Illinois among others passed an act forbidding a railroad to charge more for any given distance than it was charging for a longer distance, and imposing a penalty for such discrimination. On the 25th day of October, 1886, the Supreme Court decided the great case of the Wabash &c. R. R. Co. v. the State of Illinois, 118 U. S. 557, and held that in so far as the railroad rate legislation of the State sought to control interstate shipments, or that part of the same actually within the limits of the State, it was void, notwithstanding the silence of Congress upon the subject; thus declaring for the first time that it was not the *exercise* of the regulating power which was to be deemed exclusive, but its *existence,* and denying to the States all power by taxation or regulation to control shipments of an interstate character. (Compare Mobile

County v. Kimball, 102 U. S. 691). This decision made the passage of the Act imperative and on the fourth of February, 1887, the Interstate Commerce Act became a law. A member of the House is said to have described it as a bill which "nobody understands, nobody wants, and everybody is going to vote for." How far reaching was the step then taken no one now living can tell; it marks the transition of the commerce power from the passive to the active stage; the slumbering giant of Federal regulation had bestirred himself at last. Previous to this time the questions presented for judicial determination had been in nearly all instances those arising out of some legislation by the States which was alleged to trench upon the Federal power; from this date we shall cease to inquire how far the States may legislate, and ask in turn what is the limit of congressional action.

It is not strictly true that from the year 1866 until the year 1887, there was an entire absence of all legislation on the part of Congress in relation to interstate commerce. There were of course the various navigation acts, relating to licensing, pilotage &c. and especially the act of August 2nd, 1882, prescribing regulations for the carriage of passengers by sea. There was also the Act of July 3, 1866, regulating the carriage of nitro-glycerine and other like nitro-explosives, requiring them to be securely packed and plainly marked—all of which no doubt grew out of the famous nitro-glycerine cases, which brought the danger of the compound so forcibly before the public mind; but in this act it was expressly provided that it should not be so construed as to prohibit any State from forbidding the importation, or regulating the manufacture and use of any such products within its own borders. There was the clause inserted in the Internal Revenue Act of 1867, making it a misdemeanor to mix for sale, or sell or offer for sale, naptha, illuminating oils or petroleum of less than 110 degrees fire test; but this the Supreme Court in U. S. v. DeWitt, 9 Wall. 41, held to be a police regulation pure and simple, and as such beyond Congressional power. There was the Act of March 3, 1873, forbidding live stock in transit to be confined in care for more than twenty-eight consecutive hours, without unloading, and requiring it to be fed and watered; the manifest purpose of the act being the preservation of goods during actual transportation, and as such a regulation of commerce in the same sense as the Navigation Acts referred to. And there was also the Act of May 29th, 1884, creating the Bureau of Animal Industry, preventing the importation or exportation of cattle affected with pleuro-pneumonia or like diseases and establishing quarantine regulations. But a more or less careful search has disclosed nothing further; and the mere statement of the meagre character of this legisla-

tion brings out in bold relief the change which has since taken place.

The subsequent history of the Act of 1887, is too fresh in our minds to require more than a passing reference. In 1889, there was added to the Act the mandamus clause, giving the Circuit and District Courts the right to enforce by mandamus at the suit of a shipper the provisions of the Act. In 1893, persons testifying before the Commission were given immunity from prosecution, in order to destroy the self-incriminatory character of their evidence. In 1903, was passed the "Expedition Act", giving to cases arising under either the Interstate Commerce Act or the Anti-Trust Act, priority upon the Court dockets. In 1903 also the Elkins Act was passed, making the corporation as well as its officers and agents criminally liable for violations of the Act, and making the published tariff the standard of lawfulness and any departure therefrom a misdemeanor.

It should also be noted, as evidencing the growing determination on the part of Congress to subject transportation by rail to the same sort of regulation as that exercised over transportation by water under the navigation Acts, that in 1893 was passed the Safety-Appliance Act, since twice amended, requiring the use of train brakes, automatic couplers, grab-irons and hand-holds, and empowering the Commission to fix a standard height of draw-bars for freight cars; and in 1901, the Act requiring all carriers to make to the Commission a monthly report of all accidents.

Each succeeding report of the Commission, however, complained of the narrow power conferred upon it by the original act. The unquestioned existence of abuses which the Act was powerless to reach, made the complaint of the Commission simply a reflex of a growing popular sentiment, which had its culmination in the passage at the last session of the Hepburn Bill. And let me say, that however much we may approve the intent and purpose of that Act—and who indeed does not—it leaves many things to be desired from the standpoint of legal draughtsmanship. I question whether any member of this Association would be willing to take the undivided responsibility for its composition. But what extension of control does it effect? The Act of 1887 in terms applied to common carriers by railroad, or partly by railroad and partly by water; and by an amendment in 1888, was made to apply to telegraph lines built under government subsidy. The Hepburn Act embraces also pipe-lines, express companies, and sleeping-car companies. The original act confined itself largely to a general prohibition of rebates and discriminations, and made the powers of the Commission little more than inquisitorial; the Hepburn Act goes beyond

this with its specific provisions against the giving of passes, and the transportation by a carrier of any commodity manufactured, mined, produced or owned by it wholly or in part, other than timber; its requirement that switch connections shall be installed, and that the originating or receiving carrier shall be liable to the shipper for all loss whether occurring upon its own or upon connecting lines, and that schedules of rates shall be publicly posted; and its grant to the Commission of the power to determine and fix rates, and to award to the complaining shipper damages for violations of the Act.

I say that we approve the intent and purpose of this Act. It has come to stay beyond all question. How far it will be beneficial remains to be seen; but if it fails to accomplish the ends for which it was framed, we may rest assured that the legislation which will replace it will be more drastic and not less so. We are hardly surprised at the growth of power which it illustrates; and yet we are sensible of astonishment at some of the suggestions made for its enlargement. Only the other day, if he has been correctly quoted, Justice Gaynor of the State of New York urged that the Federal Government, in order to make the Act effective, should nominate and appoint the General Freight Agent of each and every interstate railroad, who should be a Federal employee and responsible to the Government alone.

Let us note the chain of argument upon which the Interstate Commerce Act and its amendments depend. First, it was the intent of the Constitution that commerce between the States should be free; the power to maintain this freedom was vested in the Federal government; its existance in the Federal government, precludes its exercise, so far as such interstate commerce is concerned, by any of the States; commerce is no longer free when one shipper enjoys privileges not granted to another, therefore Congress as representative of the sole power must prohibit preferences and discriminations; experience has shown that the giving of passes, the ownership of commodities by the carrier, perhaps the shifting of the burden of the carriers contract to succeeding carriers, and the uncontrolled power in the carrier to fix its rates all tend toward that discrimination which destroys freedom; *ergo,* Congress may go beyond a simple forbidding of discrimination, and may forbid all these things.

And so in order that interstate commerce may be not only free but safe, that persons and property may be transported without loss or injury while in transit, we have such legislation as the Live Stock Act, the Safety-Appliance Act, or the Accident Report Act above referred to. And the argument is that the same power which may regulate interstate commerce in

order to preserve its freedom, may likewise preserve by appropriate safeguards the subject of its regulation.

But we may pause to inquire upon what theory the Employers Liability Act of 1906, is to be treated as a regulation of interstate commerce. True it applies in terms to common carriers engaged in commerce between the States, but the power in Congress is not to regulate *carriers,* but to regulate *commerce;* and only in so far as the acts or omissions of the carriers affect the freedom or the safety of commerce, do they seem to be logically subject to control. This Act provides, in brief, (1) that each such carrier shall be liable to any of its employees, or in the case of his death to his personal representative for the benefit of his widow and children, if any, if none, then for his parents, if none, then for his next of kin dependent upon him, for all damages which may result from the negligence of any of its officers, agents or employees, or by reason of any defect or insufficiency due to its negligence in its cars, engines, appliances, machinery, track, roadbed, ways or works; (2) that contributory negligence shall not be a bar to recovery where the negligence is gross, and the contributory negligence is slight but the "damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee," and further that "all questions of negligence and contributory negligence shall be for the jury"; (3) that no contract for relief benefit or other indemnity, shall bar the employee's right of recovery, but any sums paid by the carrier thereunder may be set-off by its *pro tanto* as against any claim. By the broad and sweeping language used it is apparent that it was the intent of Congress to subject every common carrier in the country, whether railroad companies, telegraph companies, pipe line companies, telephone companies, express companies, sleeping car companies, electric lines if crossing the boundary of a State, and all of their employees no matter in what branch of the business engaged, to the operation of the act; nor is it necessary that the employee should be engaged in an act forming part of a transaction in interstate commerce at the time or place of his injury, provided only that the defendant carrier is one "eengaged in" interstate traffic as a part of its regular business.

At one stroke the Act abolishes the doctrine of fellow-servants, destroys contributory negligence as a defense, restores the doctrine of comparative negligence long since repudiated by the courts, prescribes the respective provinces of judge and jury, nullifies contracts between the carrier and the employee, removes all limit on the amount of the recovery, fixes the statute of limitations at one year and permits recovery in case of death only for the widow, children, parents or next of kin *dependent*

upon him; and since—if it be a valid regulation of commerce, and therefore constitutional—the power of Congress in the matter is exclusive, the act is the supreme law of the land, and wipes out all legislation or decisions by any state *in pari materia,* and transfers to the Federal Courts all litigation arising under its provisions where the amount exceeds two thousand dollars, regardless of the citizenship of the parties. How can this be said to be a regulation of commerce—unless indeed actions for tort have become such? And if the Act be not supported by the commerce clause, then under what clause of the Constitution is it framed, and by what right shall the rules heretofore pertaining to actions for negligent tort as between litigants in general be abrogated as to defendants of a certain class?

SHERMAN ANTI-TRUST ACT.

The Sherman Anti-Trust Act of July 2nd, 1890, finds its justification in the same course of reasoning which supports the Interstate Commerce Act of 1887. Once granted that Congress may preserve trade between the states from restraint not only on the part of the States themselves, but also on the part of any individual; then it may not only prevent the carrier from destroying this freedom but may declare unlawful the effort on the part of any other person or combination of persons so to do. It is worthy of note also that the Supreme Court has always been the effective bulwark in a negative way against aggressions on the part of the States upon this freedom of commerce; but only the affirmative action of Congress can preserve it as against individuals. The Anti-Trust Act therefore in its prohibition of "every contract, combination in the form of trust or otherwise or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations", is broader in fundamental principle than the Act of 1887, only in so far as it operates beyond the mere agencies of transportation upon contracts, which may be made before transportation has yet begun. And yet in the Sugar Trust Case (U. S. v. Knight Co., 156 U. S. 1) the Court held that the effort on the part of a sugar refining company to gain control of the manufacture of refined sugar in the United States was not within the purview of the Act; holding that "the monopolies denounced by the act are those in interstate and foreign commerce, and not those in manufacture"—whether of the necessaries of life or of other things; that manufacture precedes commerce, but is not a part of it, and that sale as an incident of manufacture is also to be distinguished from commerce. To this distinction I shall refere later and at more length. So again

in the case of the U. S. v. Swift, 196 U. S. 375, the Court holds in effect that it is not the restraint of trade which is made illegal, since that may result from the legitimate exercise of lawful powers; (the very fact of private ownership restrains trade in greater or less degree in the commodity owned); but it is the making of contracts having the restraint of trade as their purpose which the Act condemns. Mere magnitude of business does not constitute monopoly. (In re Greene, 52 Fed. 104).

How far, if at all, proceedings now instituted by the Government of the United States are to modify these interpretations of the act; how far, if at all, it is to be broadened or sought to be broadened by future legislation, we need not now inquire. The development of the theme in hand and a limited time prevents such discussion. I ask you however to observe that to this date all decisions of the Supreme Court and all laws enacted by Congress in the enforcement or exercise of the power to regulate commerce among the States, are concerned with some one of four well marked subjects, namely: (1) Discriminatory or restrictive legislation by the States; (2) Interstate transportation by water, its freedom and its safety; (3) Interstate transportation by land, its freedom and its safety; (4) The prevention of restraints upon interstate commerce, and the consequent destruction of its freedom, not only by the States, or by the carriers, but by contracts, combinations or conspiracies among individuals. And although the fourth step was reached only by steady advance from the first, yet all hark back to the historical, logical and fundamental reason for the Commerce power—*the preservation of free trade among the several States and the citizens thereof.*

THE END OF THE JOURNEY.

But in the year 1891 there came what I think may be rightly called the Great Departure, the opening up of an entirely new field for Congressional activity. How radical was the movement does not at the time appear to have been fully appreciated, nor do I believe that the far reaching effect of the legislation then inaugurated can, even at this day, be discerned. In the passage of the Act of March 3rd, 1891, for the inspection of slaughter houses and their products, Congress for the first time assumed the right to forbid the interstate transportation of articles not in themselves injurious to other articles in transit. It is true that in 1866 it had forbidden the transportation of nitro-glycerine unless safely packed, and in 1884, the transportation of cattle suffering with a contagious disease, but these acts both found their justification in the power to safeguard

articles of commerce while in transit. The Act of 1891 was the forerunner and progenitor of the Beef Inspection Act of 1906. It vested in the Secretary of Agriculture the right to prescribe rules for the care of export cattle; to cause to be inspected prior to their slaughter all cattle, sheep and hogs about to be slaughtered at slaughter-houses, canning, salting, packing or rendering establishments, in any state or territory, the carcasses or product of which are to be transported and sold for human consumption in any other State or Territory or in the District of Columbia, and if need be to hold a post mortem examination; to cause the carcasses so inspected to be marked, stamped or labelled, and certificates of soundness to be delivered to the owner; and declaring it unlawful to transport or deliver for transportation in interstate commerce all meats so declared unsound.

The provisions of the Act of 1906 are too fresh in our minds to require enumeration; but it will at once be seen that it differs from this former Statute only in the breadth and stringency of its provisions, and not at all in principle. Both are an assertion on the part of Congress of the power not only to regulate interstate commerce, but to declare what articles may become the subject of such commerce; and not only to declare what articles shall become the subject of such commerce but to stand at the elbow of the manufacturer and supervise his processes. Over and again the distinction between the reserve police power of the States and the power of Congress over commerce has been announced and insisted upon; but once concede to Congress the right to close the great avenues of trade to whatsoever objects it may choose, and the further right to inspect articles in course of manufacture, and the distinction becomes indeed one without a difference. "Monopoly", says Henry D. Lloyd, "is business at the end of its journey; it has got there." The same thing may be said of this last extension of the commerce clause; it can be no longer a question of the adoption of new principles but the application of old principles to new objects. *The right to prohibit is the commerce power at the end of its journey.* The words "engaged in trade or commerce between the States" as to persons, and "for shipment from one State to another State or to the District of Columbia" as to objects, are to be the open-sesames, to unlock for Congress the whole storehouse of governmental power.

In 1895, the Anti-Lottery Bill passed, forbidding the transportation from State to State of any lottery tickets, or advertisements for a lottery; they had earlier been excluded from the mails. In 1897 we have the Act making it a crime to deposit for carriage inter state with any express company or common carrier any obscene book, pamphlet or object; in 1900

the Lacey Law, forbidding the importation of certain foreign birds and animals—among others the English Sparrow (alas for the unconscious humor of the suggestion)—and making it unlawful to deliver to any common carrier for transportation, or for any common carrier to transport from State to State any foreign animals or birds of the prohibited sorts, or the dead bodies or parts of bodies of wild animals killed in violation of the game laws of any State; in 1902, a like act as to renovated butter, whose pedigree does not bear the heraldic certificate of the Secretary of Agriculture, and also a similar act as to virus, anti-toxin, and serum of various sorts not put out from a duly licensed establishment; and in the present year we have hailed with some acclaim the enlarged Beef-Inspection Act, and the Pure Food Law, which latter forbids the shipment or the delivery for shipment from any State or Territory or the District of Columbia, to any State or Territory or the District of Columbia, of any article adulterated or misbranded within the meaning of the Act.

Nor are we done here. The distinguished senior senators from the States of Indiana and Massachusetts, are now vieing with each other at the current session in the introduction of bills declaring that no article in or about the manufacture of which child-labor shall have been employed shall be so shipped or offered for shipment. "Senator Lodge", says one paper, "recognizes the fact that Congress has no power over labor conditions in the various States, but his bill will strike at the evil through the all-powerful commerce clause of the Constitution, which in recent years has been frequently invoked to reach evils over which Congress formerly was supposed to have no jurisdiction." It has been well suggested that if Congress can prohibit the transportation of the product of child labor, it can also prohibit the transportation of goods manufactured by "scab" labor, which not a few of the folks of this country think little if any less opprobrious than child labor; and can thus close the door of the factory to every workman who does not have a union card. Or if some of our good friends who hold extreme views n the liquor question came to power they could exclude all goods manufactured by any man who took a dram; and indirectly forbid any man to work in a shop unless he repeated the Lord's Prayer every night after supper, and began the day with the reading of the Nineteenth Psalm.

To some extent this legislation has been before the Courts. In 1898, one Harry Boyer was indicted in the District Court of the United States for the Western District of Missouri, upon the charge of having attempted to bribe certain inspectors of meats appointed under the Act of 1891; a demurrer to the indictment was interposed on the ground that Congress had no

power to authorize the appointment of such inspectors and that they were not therefore in any proper sense officers of the United States or acting for or on behalf of the United States, and so were not within the purview of the Anti-Bribery Statute. In a well reasoned opinion the Judge of that court declared that packing houses engaged in slaughtering cattle, sheep and hogs intended for interstate and foreign markets are not engaged in interstate commerce, and that the act providing for their inspection was without constitutional warrant and void; that interstate commerce is not determined by the character of the commodity, nor by the intention of the owner to transfer it to another State for sale, nor by his preparation of it for transportation, but rather by its actual delivery to a common carrier for transportation, or the actual commencement of its transfer to another State. In this latter holding he followed the cases of Coe v. Errol, 116 U. S. 517, and the Daniel Ball, 10 Wall. 557; and he quoted in support of his assertion that manufacture is not commerce the familiar passage from the opinion of the Court in the leading case of Kidd v. Pearson, 128 U. S. 1, as follows:—

"If it be held that the term (commerce) includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with power to regulate, not only manufacture, but also agriculture, horticulture, stockraising, domestic fisheries, mining—in short every branch of human industry. For is there one of them that does not contemplate more or less clearly an interstate or foreign market? Does not the wheat grower of the Northwest, and the cotton planter of the South, plant, cultivate and harvest his crop with an eye on the prices at Liverpool, New York and Chicago? The power being vested in Congress, and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform and vital interests—interests which in their nature are and must be, local in all details of their successful management. It is not necessary to enlarge on, but only to suggest, the impracticability of such a scheme, when we regard the multitudinous affairs involved, and the almost infinite variety of their minute details."

And after calling attention to the reaffirmation of the case of Kidd v. Pearson, by the case of U. S. v. E. C. Knight Co. 156 U. S. 9,—the Sugar Trust Case—he repeated the oft-quoted language of Chief Justice Fuller in that opinion to the effect that—

"It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should be always recognized and observed; for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk be run in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality."

There was of course no possibility of appeal; and this case stands as the sole adjudication on the specific Act. Is it possible, say you, that the bribery of a beef inspector is made so easy, after the terrific battle of last Spring, the torture of "The Jungle", and our long enforced resort to a vegetarian diet?

In the case of U. S. v. Popper, 98 Fed. Rep. 423, by the District Court for the State of California, the validity of the law against the transportation of obscene objects was upheld, upon the broad ground that Congress having the power to regulate commerce had also the power to declare what articles might be the subject of commerce. The opinion is far from convincing and assumes that the power of Congress over interstate and over foreign commerce is identical, a doctrine demonstrably untrue. (See 2 Tucker's Constitution, pp. 526 to 555).

Only in the Lottery Cases (Champion v. Ames, 188 U. S. 321) has the Supreme Court spoken directly on the subject, although in the earlier case of Ex Parte Jackson, 96 U. S. 727, it is declared in the course of the opinion that Congress has no power to prevent the transportation as merchandise of matter which it may have excluded from the mails. Champion under arrest for a violation of the Anti-Lottery Act of 1895 above mentioned, brought habeas corpus against Ames, the Marshall, relying upon the unconstitutionality of the Act for a violation of which he was held. Two questions arose, first is a lottery ticket the subject of commerce, and second has Congress under the power to regulate commerce the right to prohibit transportation? The decision was by—I had almost said—the customary majority of five to four; and the majority opinion by Justice Harlan really seems to be based more upon moral grounds than upon precedent. I cannot forbear a quotation from the dissenting opinion of the Chief Justice on the two questions involved. After calling attention to the earlier cases excluding from the list of objects of commerce insurance policies, negotiable instruments, bills of exchange, and even lottery tickets themselves, he says:—

"If a lottery ticket is not an article of commerce, how can it become so when placed in a box or other covering and

transported by an express company? To say that the mere carrying of an article which is not an article of commerce in and of itself nevertheless becomes such the moment it is to be transported from one state to another, is to transform a non-commercial article into a commercial one simply because it is transported. I cannot conceive that any such result can properly follow. It would be to say that everything is an article of commerce the moment it is taken to be transported from place to place, and of interstate commerce if from State to State.

An invitation to dine, or to take a drive, or a note of introduction all becomes articles of commerce under the ruling in this case by being deposited with an express company for transportation. This in effect breakes down all the differences between that which is and that which is not an article of commerce and the necessary consequence is to take from the States all jurisdiction over the subject so far as interstate communication is concerned. It is a long step in the direction of wiping out all traces of state lines, and the creation of a centralized government."

Again he says:—

"Does the grant to Congress of the power to regulate interstate commerce import the absolute power to prohibit it?

It was said in Gibbons v. Ogden that 'the right of intercourse between State and State was derived from those laws whose authority is recognized by civilized man throughout the world'; but under the articles of Confederation the States might have interdicted interstate trade, yet when they surrendered the power to deal with commerce as between themselves to the general government it was undoubtedly to form a more perfect union by freeing such commerce from State discrimination, and not to transfer the power of restriction.

'But if that power of regulation is absolutely unrestricted as respects interstate commerce, then the very unity the Constitution was framed to secure can be set at naught by a legislative body created by that instrument.' Dooley v. U. S., 183 U. S. 171.

"It will not do to say—a suggestion which has been heretofore made in this case—that State laws have been found to be ineffective for the suppression of lotteries, and therefore Congress should interfere. The scope of the commerce clause of the Constitution is not to be enlarged because of present views of the public interest.

"In countries whose fundamental law is flexible it may be that the homely maxim 'to ease the shoe where it pinches' may be applied, but under the Constitution of the United States it cannot be availed of to justify action by Congress or by the Courts. The Constitution gives no countenance to the theory

that Congress is vested with the full powers of the British Parliament, and that, although subject to constitutional limitations, it is the sole judge of their extent and application; and the decisions of this court from the beginning have been to the contrary. * * * * * .

"I regard this decision as inconsistent with the views of the framers of the Constitution and of Marshall its great expounder. Our form of government may remain notwithstanding legislation or decision, but as long ago observed, it is with governments as with religions; the form may survive the substance of the faith."

If Congress may declare what articles shall be the subject of commerce and then regulate commerce as so defined, what is this in the last resolve but the fixing by the legislative branch of the limits for its own power under the guise of definition. Nothing is better settled than that the Legislature cannot by any act of its own enlarge its own power.

In his message to Congress on the fourth of this month the President expressed the hope that "both the legislative and judicial branches of the government will construe this clause of the Constitution in the broadest possible manner." The desire of the Executive so to construe it is frankly avowed, and he renews again his recommendation that Congress by a system of licenses or otherwise take control of "the great corporations which do not operate exclusively within the limits of any one State," with a view to prevent over-capitalization and to secure publicity. There is no renewal of the recommendation for the Federal control of insurance which the judiciary committees of both the House and Senate at the last session declared to be beyond Congressional power. In his message to the last session he calls attention to this subject and suggests that Congress has already recognized the fact that insurance may be a proper subject for Federal control by creating the Bureau of Corporations and empowering it to publish and supply useful information regarding interstate corporations, including those engaged in insurance; thus intimating broadly that it is but a short step from statistics to Statutes.

When we read a letter written by Mr. Jefferson, from Philadelphia, on the 18th of April, 1800, to Robert R. Livingston, we cannot help wondering whether the President's views of constitutional construction, may not after all be hereditary. Listen to this extract, and note the curious coincidence in names:—

"We are here (Philadelphia) engaged in improving our Constitution by construction, so as to make it what the majority think it should have been. The Senate received yesterday a bill from the Representatives incorporating a company

for *Roosevelt's* copper mines in Jersey. This is under the *sweeping clause* of the Constitution and supported by the following pedigree of necessities; Congress are authorized to defend the country; ships are necessary for that defense; copper is necessary for ships; mines are necessary to produce copper; companies are necessary to work mines; and 'this is the House that Jack built'." (IX Ford's Ed. Jefferson's Works, 134).

The proposal to control all interstate corporations by a system of licenses was most ably discussed before this Association by Mr. Hugh L. Bond, Jr. four years ago. I recall his pertinent question—"Can Congress deny the privilege of engaging in interstate commerce to a corporation because it is overcapitalized, any more than it can deny the same privilege to a man because he is too fat?", and his pregnant statement that—"If Congress has the power to regulate indirectly the business of corporations, the same power will enable it to regulate the business of individuals in the same way; for it has no special jurisdiction of corporations."

CONCLUSION.

I have attempted to give a birds-eye view of the growth of Federal power under this clause, and a hint of what may come in the future. I fancy that every member of this Association sympathises heartily in the end sought to be attained by the Rate Bill, the Beef-Inspection Act, the Pure Food Law, or the Anti-Lottery Statute. So again are we a unit as to the evils of overcapitalization, and the desirability for that publicity in corporate affairs which is the best guarantee of both corporate honesty and public confidence. But let us not deceive ourselves as to the meaning of the methods employed. Let us remember that in this control of commerce, in both its narrower and broader sense, the States and the Federal Government draw from no common reservoir; that if the power be conceded to be within the grasp of the Federal Government, its very existence there even though unexercised precludes its exertion by the States; that when we have once committed these matters to the Federal care they cannot be withdrawn and that upon all such subjects the people must look to Congress and to Congress alone for legislation and relief; and that the steady expansion of the Federal power inevitably means by just so much the diminution of the power of the States. And let us remember further in the language of Marshall that—"Questions of power do not depend on the degree to which it may be exercised. If it may be exercised at all, it must be exercised at the will of those in whose hands it is placed." (Brown v. Maryland, 12 Wheat. 439). It is not that the Federal Government will regulate these

matters jointly with the States, but that it will absorb the power of regulation which the States have heretofore enjoyed. Are we ready for this change?

It is becoming increasingly popular to complain of constitutional limitations and restrictions; to cry "woe unto you lawyers" at those who call attention to the limits set for governmental power; or, at the least, in exceeding mercy to their fault, to dub them "reactionaries". Even from those in high places there is more than an intimation that our country has outgrown its charter; and in default of a newer one the old must be stretched beyond both its letter and its spirit. Nor can we fail to notice that other class, no longer inconspicuous or scattered, who are ready to abandon once for all the theory of a government based upon a written grant of power. Are there not many who cry in the words of Lowell:—

> "The time is ripe and rotten ripe for change;
> Then let it come. I have no dread of what
> Is called for by the conscience of mankind;
> Nor think I that God's world will fall apart
> Because we tear a parchment more or less."

At such a time may we not pause to reflect upon the twin principles which have formed the very genius of all our institutions—a jealousy of governmental power, and a determination to retain the government under the very eye of the governed.

Never has the reason for the existence of a written Constitution been more strongly stated than in the Kentucky Resolutions of 1798, in which the essence of all wisdom on this subject was summed up in these words:—

"It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights. Confidence is everywhere the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power; our Constitution has accordingly fixed the limits to which and no farther, our confidence may go. * * * In questions of power, let no more be said of confidence in man, but bind him down from mischief by the chains of Constitution."

And the second of these cardinal principles, that of local self government, is more than a mere question of States Rights from the historical standpoint; it is something more than the now outworn pride of new commonwealths in their separate origin, something more than the jealousies between discordant sections. It finds its expression, its defense and its justification in the historical assertion, as true today as it was when

firt uttered, that "liberty can only be preserved in small areas."

I am addressing a body of men committed by their oaths to the support and defense of our Constitutions. We cannot if we would escape from that duty. I do not need to remind you that dissatisfaction with a law—either organic or statutory—does not justify disobedience; that contempt for the higher laws in high places must bring contempt for lesser laws among the lowly; and that constitutional distortion is as much a crime as constitutional destruction. I have tried to call attention to the appearance of a new series of questions in the politico-legal world. What do we answer to them? Has our system of government as heretofore understood proven itself inadequate? Have the States, by impotence or worse, proven unequal to the duties and responsibilities resting upon them? Has it become necessary for the Federal Government to assume the power to regulate not only commerce in the narrow sense but all business as well that oversteps the narrow boundary of its parent State? And if it be desirable so to do has the Congress such power? If it has not by the letter of the organic law, is it best that we disregard the letter and build alongside our written Constitution an unwritten law, dependent upon the will of the Congress and the composition of the courts? These are questions which—like Jesting Pilate—will not stay for an answer. They must be answered here and now, and it is from the lawyers of the country that the answer is to come.

Without regard to the circumstances under which it was uttered, one cannot but commend the lofty language of Justice Daniel in the case of the Magnolia above cited. "If, said he, "in the results which have heretofore attended repeated efforts on my part to assert what are regarded both as the sacred authority of the Constitution and the venerable dictates of the law were to be sought the incentive for this remonstrance, this act might appear to be without motive; for it cannot be denied that to earnest and successive remonstrance have succeeded still wider departures from restrictions previously recognized, until in the case before us every limit upon power, save those which judicial discretion or the propensity of the court may think proper to impose, is now cast aside. But it is felt that in the discharge of official obligation there may be motives much higher than either the prospect or attainment of success can supply; and it may be accepted as a moral axiom, that he who under convictions of duty, cannot steadily oppose his exertions, although feeble and unaided, to the march of power, when believed to be wrongful, however over-shadowing it may appear, must be an unsafe depositary of either public or private confidence."

In the same case Mr. Justice Campbell, speaking of kindred themes, says:—

"Magna Charta, from which a portion of this (the English) Constitution was extracted, was according to Lord Brougham, 'a declaration of existing and violated rights.' It was renewed thirty times. To preserve its authority it was read in the churches, published four times a year in the county courts, sustained by force of arms, and when violated the commons vindicated it by the infliction of exemplary punishment upon the guilty authors. A delinquent king was at one time required to imprecate the wrath of heaven upon those who transgressed it. The archbishops and bishops appareled in their official robes, and with candles burning, 'did excommunicate, accurse, and from the threshold of the church cut off all those who, by any art or devise, shall violate, break, lessen, or change secretly or openly, by deed, word or counsel, against it in any article whatsoever, and all those that against it shall make statutes, or observe them being made, or shall bring in customs, or keep them when they be brought in, and the writers of such statutes, and also the counselors and executioners of them, and all those that shall presume to judge according to them.'

The old historian who describes this solemn ceremony says, 'that when this imprecation was uttered, and when the candles had been hurled upon the ground, and the fumes and stench rose offensive to the nostrils and eyes of those who observed it, the archbishop cried, 'Even so let the damned souls be extinguished, smoke and stink, of all who violate this charter or unrighteously interpret it!' "

Let us see to it for our part, Gentlemen of the Bar, that we "support the Constitution of the United States," and that we support no less the "Constitution of the State of West Virginia". Thus and thus only, believe me, shall we "honestly demean ourselves in the practice of the law."

APPENDIX II.

(Note by the Secretary.)

This Appendix should contain the Annual Address by the Honorable A. J. Montague of Virginia. The Secretary's regretful apology for not here printing it is that the address has never been reduced to writing by Governor Montague, and so cannot be reproduced.

APPENDIX III.

(Paper of Jno. T. Cooper, Esq.)

Direct Nominating Primaries.

The best authorities on Sociology and Political Economics tell us that the two reasons par excellence for the granting of universal franchise are, First that citizens in every walk of life may have ample opportunity to protect their individual interests in the making of laws and in the administration of the government under which they live—"no taxation without representation." Second, that there is great educational value in the intelligent exercise of suffrage. The ballot throws on each adult man the responsibility of thinking out the great principles of government and of choosing the men who will best carry out these principles and best represent his interests. In so doing he not only developes the faculties of observation and reason but, being caused to feel that he has some part in the government, there is awakened in him the spirit of independent manhood. It follows that in proportion as the exercise of this choice is discouraged by complicated machinery and made expensive to the voter the rights of the people are not only neglected but adult education is also neglected. What, then, should be said of those states where the laws, or lack of laws, encourage party leaders to trickery in the manipulation of conventions so that nominations are practically made by only two or three per cent. of the members of each of the political parties. States where most of the busy men, and therefore the better citizens, are, through a confusing number of mass conventions and delegate conventions held at variable dates, practically prevented from keeping track of their party doings or having any influence whatever in the selection of party candidates?

Comparative Importance of Direct Primaries.

It has always seemed to the writer that in enforcing the Australian ballot system at regular elections and neglecting to place equal or better safeguards around the selection of nominees to be put up at such elections the laws of this and other states have, so to speak, put the cart before the horse. The benefits derived from suffrage at the election are at a minimum because there is there made simply a choice between two men for the same office. If the voter feels that he has nothing to say in the nomination of either of the two, the one he expects to be elected is regarded by him as a member of a privileged class to be hyped, rather than as his employee to be elected and paid by him for looking after his interests. At the primary, however, the benefits derived from universal suffrage are at a maximum; for not only are the men there chosen who lead the party, which party formulates party principles, which party principles determine the policy of government, but the voter may there choose from among hundreds of good men the man who will best carry out these principles and serve his interests. By this or similar reason-

ing in a large number of states in the Union the people have come to the conclusion that the method of putting up candidates at elections is of far greater importance than the method of conducting even the election itself and, with the promptness characteristic of the American people, have passed laws by which their convictions have been carried into practice. Nearly every state has some form of primary election law or primaries conducted under party rules. The exceptions are West Virginia, Colorado, Oklahoma, Kansas, Vermont and Utah. How far West Virginia is behind the times on this question may be noted by the states with which she is classed in this regard. Only two states east of the Mississippi River have no provisions for primary elections: these are the states of West Virginia and Vermont. Six states, as the writer is informed, have direct primary laws for the selection of nominees for and within the counties only; four have direct primaries by party rules; ten have indirect primaries; and fifteen have made direct primaries optional. Three states in the Union have what are known as direct primary election laws compulsory for the nomination of every officer from United States Senator down to constable. It is principally the manner of conducting primaries in these latter three states that we have in mind when we speak of direct nominating primaries, although the laws of all the other thirty-eight states have some features in common with those of Oregon, Mississippi and Wisconsin.

Some Objections Answered.

Among all that has been said by the papers of this state on the subject ,nearly all of which have spoken in favor of a direct primary election law, we have noticed one or two that were not inclined to do so. The latter have shown palpable ignorance of even the most salient features of the proposed law; nor can they very well be blamed inasmuch as there are many primary election laws, some of which do not by any means deserve the name of direct primary election laws. One instance of how mistaken ideas get their start was a protracted argument recently published against the direct primary, all of which was drawn from the alleged horrible example of the operation of the law in Virginia. As a matter of fact there is no primary election law of any kind in Virginia, but the Democratic party in that state has adopted a rule by which their own nominations are made directly by primary elections under the control of their party leaders. If there is any horrible example in the State of Virginia, it is the result of making nominations under the sole control of a largely dominant party and only goes to prove that nominations should be made under the safeguards thrown around them by law as at direct nominating primary elections. One paper says that one would have to be a millionaire to run for office under such a law; another is of the opposite opinion and says that, no money consideration being required, everybody would be running for office. It is true that no candidate would be at the mercy of an executive committee which might assess him for any amount it might see fit and that no money consideration would be required. Yet, one who would have his name placed on his party's ballot will have to work; for he must get the consent by way of petition of two per cent. of the members of his own party in the political division which he would represent under such conditions and restrictions that would make the undertaking no sinecure. These requirements seem to be fair; for if the candidate expects to get the nomination, he must subsequently get the support of not only those who are on the petition but of many other members of his party. It would be a waste of time and effort to allow anyone to come out at the primary who could not command at least two per cent. of his party vote. It will not, under

the proposed law, require a cent to get nominated, although it may require some individual work, and the poor man who is a well known and respected citizen may stand as good a chance to get nominated, if the laws are enforced, as the wealthiest. The law against hyping and the use of money at primaries make it a misdemeanor to even ask a candidate for as little as ten cents or anything else of value; or to use money in any way to influence voters. There will therefore be no excuse for being hyped. Anyhow, if a candidate cannot be nominated without the assistance of the hyper he had better stay out of the race.

Nominations by the Entire Party.

If universal suffrage is a benefit, it is certainly true that the greater the number that intelligently exercise the right of choice in the affairs of government the greater will be the number that will be benefited. One of the tests of the direct nominating primary must, therefore, be the answer to the question whether or not it will bring out a large number of the members of the respective parties in the making of the party choice. At present, if a loyal member of his party wishes to exercise his right at the nominations of his party candidates to be put up at a general election, he must do so at the expenditure of considerable time and money and may be compelled to attend some five or six conventions. The mass convention to select delegates to the Congressional convention may be held at one time; at another time a mass convention to select delegates to the State Senatorial convention; at another time a mass convention to select delegates to the Judicial convention; at another time a mass convention to select delegates to the State convention; and still at another time we may have a convention to select district candidates. Then coming on top of these, all held at different times, are the State delegate conventions, the Congressional delegate conventions, the State Senatorial delegate conventions and the Judicial delegate conventions. Now all of these conventions, each of which may now be held in West Virginia at almost any time and place which the respective committees may see fit to choose, are confusing to even the most intelligent of our business men, with the result that they never attend mass conventions, much less exercise the right of intelligent choice. Not only does the burden of confusion tend to deprive the average voter of a choice in the selections of his party candidates, but there is the additional burden of expense and loss of time. Especially to the man living in the country the attending of so many conventions means the loss of at least five days and costs of travel; it is not strange that the average mass convention of either party is not attended by more than three per cent. of the members entitled to vote at them—when it comes to attending the delegate conventions the individual expense is much larger. All of these burdens act as restrictions on the exercise of the franchise and lessen the benefits for the realization of which the franchise was brought into being.

Under a direct primary law, United States Senators, State officers, Congressmen, State Senators, Circuit Judges, and all county and district officers will, in the year that they are to be nominated, be nominated on the same day. Not only so, but that day will be fixed by law as certainly as election day is at present. Every voter, whether he sees it in the paper or not, will know where and when candidates are to be made. The man in the country who desires to exercise his right to express himself in all his party nominations will not have to travel across the county five or six times in every election year at a great loss of time and money; one trip to his regular voting place will make unnecessary attendance at all the conglomeration of mass conventions and delegate conventions that may be necessary at present. From year to year primary

day will become a date fixed in his mind and the primary will be attended with greater certainty even than the November election itself. With candidates out for nomination on their respective tickets for the several offices from U. S. Senator down, there is not a live man in either of the parties but who would be out at the primary election and exercise the right of suffrage.

The Question of Expense.

Of the things most sacred to each citizen the greatest are education and self-government, the main purposes for which universal suffrage was granted. If a direct primary election law is the best means for securing these benefits through encouraging the exercise of the franchise, as we have tried to show, each individual is not only the gainer but the State is also the gainer, no matter what the cost in dollars and cents. If the voter through a narrow effort to save a few cents per capita is deprived of these benefits, not only will he loose the educational value and fail in being a part of the government, but he will ultimately be the looser in even dollars and cents. As a matter of fact, however, the direct primary election is the cheapest method of exercising the right of franchise; cheapest, not only for the candidates themselves, but cheapest for the people as a whole and the voters individually. Many illustrations might be cited. In Wood County where the Republican party has for many years nominated their local candidates at primary elections and other candidates through county mass conventions, there are forty-four voting precincts. The officers at the 1904 primary, allowing for three commissioners and two clerks each, cost the party $7.50 for each precinct, making a total cost for the county, including incidentals, of about $350. For the same money, or a very little more, under a direct primary election law all political parties in the county could have made their nominations, because they would have been made at the same time and place and before officers selected by their own respective parties. At the Wood County primary there were 1845 votes cast in the city precincts and 1841 votes cast in the precincts outside the city. With voting places arranged conveniently, as they were in the city, where the employed could vote on their way to and from work, it was not necessary for any voter to spend more than fifteen or twenty minutes in voting, so that for all practical purposes we may say it cost the city voter nothing in time or money to cast his ballot at the primary. There being three voting places in nearly every country district, they were, respectively, within easy walking distance of nearly every voter, and the average time lost by each voter could not possibly exceed a half day. At two dollars per day, a very liberal estimate of the cost of the primary to the country voters would not exceed $1841, while the cost to the city voter was practically nothing. How much would it have cost if these same voters had attended a county mass convention? There isn't a man in the city but would have lost a half day, while the country voter would have lost at least a day in addition to the cost of transportation which in many cases would have been for travel clear across the county. At two dollars per day, the tax on the city voters for exercising their right would have been $1845, while it would have cost the country voters $3682, in loss of time which added to the $1845 makes a total of $5527. The cost for transportation, meals, etc., would average at least 50c for each country voter or a total of $920, which should be added to the $5527, making a total tax, or cost, if these same voters had exercised their right at such a mass convention instead of at a primary, of $6447 instead of the $350 it cost for a primary. But this $350 if paid by all the voters of the county by way of the sheriff under a direct primary election law would have paid

the cost of making the nominations of, not one, but every party in the county; whereas the $6447 would have been the cost of making nominations by only one party at a mass convention.

Direct Voting.

The agitation for the election of United States Senators by popular vote has resulted in many states in each party adopting the practice (whether under the law or party rule) of nominating their candidates for this office by direct primaries and thus placing upon their respective members in the legislature the moral obligation to support their party's choice for that office. The writer understands on good authority that nearly half of the thirty vacancies in the United States Senate in 1907 will be filled by Senators selected in this way. This practice of voting directly for candidates is one of the characteristics of nearly all of the primary election laws. The same reasons that are advanced for the nomination or even election of United States Senators by the electorate casting their own ballots for candidates applies to a great or less degree to every office within the gift of the people. The reasons are chiefly the arguments based on the educational value of the ballot and the opportunity for self-protection already mentioned, to which may be added the argument in favor of the removal of inducements to use money at delegate conventions. It also does away with that feeling of dislike, almost approaching self-abasement, which many free citizens experience in voting away to delegates their right of choosing whom their candidates shall be. From the candidate's standpoint, it is surely a greater honor to have thousands of constituents deliberately make him their choice, handing in their ballots with his name on them, than to be chosen at second hand by a dozen or more delegates. From the voter's standpoint again, the nearer candidates are brought to the people whose support they are seeking the nearer will they represent the interests of those who are directly responsible for making their election possible. There is no questioning the proposition that if an office-holder knows that if, instead of having been selected by a few delegates many of whose votes may have been corruptly secured, a majority of all the members of his party directly voted for him, that he will be careful to find out and do what those want who are directly responsible for his elevation to office.

Party Protection.

Another salient principle underlying all of the direct primary laws thus far passed is that of protection of political parties against those who are not members of or in sympathy with the party. This is so well expressed in the preamble to the primary law of the State of Oregon that I quote it in part:—

"The government of our State by its electors and the government of a political party by its members are rightfully based on the same general principles. Every political party has the same right to be protected from the interference of persons who are not identified with it as its known and publicly avowed members, that the government of the State has to protect itself from the interference of persons who are not known and registered as its electors.

"It is as great a wrong to the people, as well as to the members of a political party, for one who is not known to be one of its members to vote or take part at any election or other proceedings of such political party, as for one who is not a qualified and registered elector to vote at any State election or take part in the business of the State."

It has been shown time and again that the floating voter under the present practice of making nominations may, by reason of the mere fact

of his being ignorant, practically unknown and without poltical principles, have twice as much to say in the choice of nominees as a well known Republican or a well known Democrat. He may be voted one day at a Democratic convention and on the very next day at a Republican convention; there is no means for checking him. Under the direct primary law this will be impossible. The nominations of all parties being made at the same time and place, the floater must make choice then and there between the parties—he can not vote the ballots of both. Furthermore he must give good and sufficient evidence of being a member of the party whose ballot he wishes to choose his candidates from.

Nominations as at present made at mass conventions are attended on the average by about three per cent. of the party in the political division for which the nomination is made. What a snap this is for the corrupting public service corporations which we hear so much about. If they can not control three per cent. of either or all of the parties when needed, they had better go out of the business. They do not always want to controll them, no doubt, but when they do it offers splendid opportunities. We have tried to show in another part of this paper that by making all nominations by all parties on the same day and that day a definite and fixed date; and by conducting the primary with a minimum expenditure of time and money on the part of the voter, we would get out practically the entire vote of each political party—at a low estimate, eighty per cent. of the vote. Here would be a tough proposition for corrupt corporate or moneyed influences to contend with. In spite of all the yellow journals may say about the degeneracy of public morals &c. there is scarcely an intelligent and well informed man in the State that will contend that eighty, forty, or even twenty-five per cent. of the people in any party can be corruptly influenced. If we can bring about a condition of affairs by which each political party will be controlled by the collective judgment of a majority of its members, there need be no fear of that party being used against the interests of the whole people. Such a condition we have every reason to believe will be brought about by the passage of and faithful enforcement of a direct nominating primary law. It is further evident that the same conditions that make it impossible for corrupt corporate influences to control nominations will make it impossible for so-called party machines to control nominations against the wishes of a majority of the members of the party. So that those who argue against the direct nominating primary claiming that it will strengthen boss rule are left without ground to stand upon—it is certainly more difficult to over-ride eighty per cent. of the party at a primary election than three per cent. at a mass convention.

Matters of Detail.

Inasmuch as any direct primary election bill which may be presented to the Legislature will provide that all officers to be nominated by political parties shall be nominated by direct vote, it follows as a logical sequence that many, if not all, of the executive committees should also be selected in that way. The principles being good for nominating candidates for general elections, there is little or no reason why they should not be applied to the nomination of municipal candidates; but municipal primaries and elections should not be held at the same time, respectively, as general primaries and elections. The details of getting out the party ballots and the conduct of direct primary elections have been carefully worked out and are based on the general election laws of the State wherever the latter can be applied. The precaution has been taken in framing the proposed law to provide that each political party shall be represented at the polls by one commissioner and one

clerk. Wherever there are only two or a multiple of two political parties to be represented by official primary ballots, an additional commissioner should be selected on the County Court's own motion, in order to make an odd number of commissioners. Such a law is intended to apply only to political parties defined as "an affiliation of electors representing a political organization which, in the political division for which it seeks to make a nomination or nominations, polled at the next preceeding general election at least twenty-five per cent. of the entire vote cast for member of Congress (or members of Congress, as the case may be) for that political division"; it follows, therefore, that nominations might still be made under Section 24 of Chapter 3 of the Code, by political organizations other than those coming within the terms of this definition. In the framing of such a bill party lines should be carefully guarded so that it will be impossible for a member of one party to vote the ballot of another party. This is a practice that has always obtained at every mass convention—especially in the cities—affording the opportunity to the worse elements in all parties to combine against the better element in either. Nor can it be prevented so long as nominations are made by mass conventions. At the direct primary, however, it is possible to correct this abuse; for every such primary furnishes for all subsequent primaries a record of the political convictions of voters, although that record should not in every instance be conclusive. Then, too, the direct primary affords longer time in which to examine into the party qualifications of each individual voter than is possible at a convention.

In order to get an expression from the members of the West Virginia Bar Association on this important topic, I have tried to indicate in this brief paper the most salient features of what is best termed a General Direct Primary Election Bill. There are other matters of detail that have not been mentioned, but it is the intention to have them all conform to the general principles already set forth in this paper.

APPENDIX IV.

Report of the Committee on Legal Education.

To the President and Members of the W. Va. Bar Association:

Your committee thinks it may be helpful to this Association to state briefly the legislation of our State on the subject of admission of candidates for the practice of law.

The Code of 1868 Chapter 119 provides that any two judges of the courts of this state may grant a license in writing to practice law in the courts thereof, to any person who shall on examination be duly qualified, and who shall produce the certificate of the board of supervisors of the county where he has resided for one year next preceding, that he is a person of honest demeanor and is over twenty-one years of age. Any person duly authorized and practicing as counsellor or attorney at law in any state or territory of the United States, or in the District of Columbia, may practice as such in the courts of this state, upon producing before the courts in which he intends to practice satisfactory evidence of his being so authorized.

The Acts of 1887 Chapter XII amends the Code so as to provide that the county court instead of the extinct board of supervisors should issue the certificate of good moral character and that three judges instead of only two should issue the license after a full and thorough examination of the applicant upon the various branches of the law, a knowledge of which is necessary in the practice thereof in this State." And this Act of 1887 provided that any person who held a diploma of graduation from the law school of the West Virginia University should be admitted to practice in the courts of this state.

The provision of the Codes of 1868 and 1887 regarding attorneys from other states who come into this state permanently to reside and practice law remained unchanged until the Acts of 1901 added this section:

"But this section shall not be construed to admit any one to practice law in this state on a license granted by another state who resides or intends to make his residence in this state at the time he makes application for license to practice." This provision seems to be all that is required unless it be deemed advsable so to amend it as to require that the attorney who has been admitted to practice in the other state shall not only be a resident of that state at the time he was admitted to practice therein but that he shall actually have practiced therein for three years (or five years;) before he moved into West Virginia permanently to reside and practice law.

The Catalogues of the West Virginia University for the years 1895-6 and 1896-7 read as follows: "Any person is at liberty to enroll in this College (College of Law) and have a seat assigned for attendance upon the lectures. However, if the person applying for admission intends to be a candidate for the degree of Bachelor of Laws he must have reached such an age and made such attainments in general education as shall satisfy the Faculty (Law Faculty) after examination, that he can credit-

ably enter upon the practice of the law when his legal studies are completed. Ladies are admitted the same as gentlemen. The Law College does not hold itself responsible for anything but the attainments of the student in his law studies; nevertheless the degree of his proficiency in the English branches is estimated in grading him for a degree in law." It will be observed that the statute law of the state had not specifically given the judges the right to examine an applicant for license upon the elementary English branches. The law faculty doubted whether it was good policy, even if the faculty had the power, to say to a man wishing to study law that he should not sit in the lecture rooms and listen to lectures until he had passed an examination in elementary English; nor even to require him to pass an examination in English if he desired to be a candidate for the degree of Bachelor of Laws, though in the latter case his English education should be passed upon and considered in his examination papers on the law subjects. Neither the University of Virginia nor Washington & Lee University nor one half of all the law schools in the United States required any preliminary English test as a condition precedent to entering upon the study of the law and obtaining a license to practice. In February 1897 the legislature amended the law regarding license to practice law as follows:

"The Supreme Court of Appeals shall prescribe and publish rules and regulations for the examination of all applicants for admission to practice law which shall include the period of study and degree of preparation required of applicants previous to being admitted, as well as to the methods of examination, whether by the court or otherwise." In accordance with this statute the Supreme Court passed the following order:

"WEST VIRGINIA:

"At a Supreme Court of Appeals held and continued in Wheeling, Ohio county, June 16th, 1897, the following rules and regulations for the examinations of all applicants for admission to practice law, was entered of record in words and figures as follows: "Until otherwise provided it is ordered, under Chapter 50 of the Acts of 1897, that any person hereafter applying for license to practice law in this state, shall, after a course of reading in the law of two years, appear before the professors of Law of the University of West Virginia, who are hereby constituted a commission for the purpose, at such times and places as such commission may prescribe, and undergo an examination by them to ascertain his fitness to practice law in the courts of this state; and such examination shall be such as is required to obtain a diploma of graduation from the Law School of said University, and, if, upon such examination such applicant shall be found to possess the requisite qualification, that Commission shall grant him a written certificate thereof, and upon it this Court will grant such applicant a license to practice law."

One of the judges of the Supreme Court told the Chairman of this Committee that the judges of that Court had consulted upon the effect of the Act of 1897 and had concluded that the Act did not give the court the right to prescribe any English test as a condition for receiving a license to practice law. If this decision was official it settles the question, but if it was not official it may well admit of argument. It would seem to go without saying that the court under the Act of 1897 had the right to say that a candidate who had no English education was not prepared to enter upon the study of the law and receive a license to practice, if the court might exclude him because he had no education it would seem to follow that they might prescribe the amount of English education which would be sufficient to prepare him to receive a license.

The Catalogue of the West Virginia University for 1905-6 page 149 says, "After September 1907 law students who enter the law school only

to prepare for the bar examination will be required to have as an entrance requirement the academic credits that are now required for entrance upon the diploma law course."

The following extracts from the report of the Committee on Legal Education at the meeting of this Association at Parkersburg, W. Va., December, 1903, is necessary at this point: "To enter the Bachelor of Laws course the student must have had the following high school work; viz: nine courses of English, that is three years of nine months each in a class that has met for one hour a day, five days a week; six courses in Latin, six courses in mathematics, and two courses in history, making twenty-two courses in all. These are absolutely prescribed. Besides these, however, he must select thirteen other courses out of fifty-six, making thirty-six courses before he can be admitted to the college academic department—but he is not yet prepared to enter the law department for the degree of Bachelor of Laws. Having completed his thirty-six courses of preparatory culture he must now have twenty-two courses of college culture. The student who completed these fifty-eight courses of academic culture is now prepared to enter the law class and compete for the degree of Bachelor of Laws."

We now come to the course for the Diploma of Law. This differs from the course for the degree of Bachelor of Laws only in the amount of academic preparation that is required to render the candidate eligible. To enter it he must have had twenty-four academic courses of three months each in a class that meets one hour a day for five days in the week. These twenty-four courses of preliminary education may be stated thus, viz: six months of English grammar (two courses); nine months of elementary algebra (three courses); twenty-seven months of Latin (nine courses); three months of American history (one course); three months of English history (one course) and three months of mediaeval history (one course). Having now qualified himself to compete for the diploma of law he may enter the law school." It is possible that the general faculty of the University has the right to prescribe any conditions precedent to conferring the degrees and honors of the University which the faculty may think proper even to the point of driving our young West Virginians who desire University degrees and other honors to the Universities of other States to obtain them; but it is suggested that the action of the faculty which takes effect in 1907, forbidding young West Virginians who desire only to prepare themselves for the bar examination from entering the law school unless they have the academic qualifications that are required of students who are asking for the honor of diploma of law is unwise. The present Catalogue of the West Virginia University (1905-'6) p. 149, says: "He" (the candidate for admission to the bar examination) "must also file with the law faculty a detailed statement of the time, place and extent of his academic schooling, including the branches of study, and if the faculty should be in doubt as to the sufficiency of these entrance requirements the applicant will be subjected to a special examination. In all cases, if lack of such elementary English education appears upon the face of the law examination papers, it will be considered a very heavy discount from the value of the paper." Reference is hereby made to the former reports of this Committee for the opinion of the American Bar Association as to the amount of academic education which should be required of a candidate for admission to the bar.

In 1897 the Committee on Legal Education of the American Bar Association recommended the following provisions as forming a consistent system that shall both protect the profession and guide the student. "No one should be admitted to the bar unless he is of good moral character, is twenty-one years of age, and is a citizen of the state. Upon

beginning professional study a student should register his name in the office of a clerk of a court of record or in a law school that is incorporated or is a department of an incorporated university. Upon petition, the law examiners should relieve from the requirements as to registration a candidate whose law studies began while he was not a citizen of the state; but they should not grant relief upon terms that would give such a candidate a preference over ordinary candidates. Prior to registration a student should prove that he has received at least the equivalent of a high school education, such proof being made by filing certificates or by passing examinations, as may be determined by the law examiners. A candidate should not be admitted to the bar until the end of three full calendar years of law study. In all parts of the state the requirements for admission to the bar should be uniform and should be administered by a State Board of Law Examiners. Law Examiners should be appointed by the court of last resort, and should serve for three or more years, part of the number being appointed each year. The law examines should recommend an appropriate order of study, and should designate the statutes, leading cases, and practical forms with which students must become familiar and in all other practical ways should aid candidates to study in a systematic and useful manner. No candidate should be admitted to the bar without examination, except as hereinafter provided. Law examinations should be held at such times and places as the court of last resort may see fit, due announcements being made as to times, places and subjects. Law examinations should consist chiefly of written answers to printed questions. Law examinations should be chiefly devoted to solving and discussing legal problems similar to those arising in office practice and in litigation; and questions should not be so framed as to admit "yes or no" answers. A candidate should be permitted, if he desire, to divide the law examination into two parts; the first part to cover the more elementary subjects and to be taken not earlier than one year after registration, and the second part to cover the more advanced subjects and to be taken not earlier than three years after registration. Upon petition, the law examiners should relieve from all requirements, save the requirements as to character, age and citizenship a candidate who is already a member of the bar of the state in which there are equivalent requirements for admission, or in which after admission, he has been in active practice for five years."

In consequence perhaps of this recommendation by the American Bar Association, the law of the several states bounding West Virginia in regard to the academic requirements for the entrance upon the study of law are as follows: Maryland requires none; the University of Virginia requires from candidates for the degree of Bachelor of Laws a diploma from a good high school or else pass an examination in English and mathematics and in TWO subjects elected by the candidate from the following list: Elementary Latin; elementary Greek; elementary German; elementary French; elementary Spanish; U. S. History; Physical Geography; Algebra (Quadratics and beyond); Geometry and Plane Trigonometry; elementary Astronomy; elementary Physics; elementary Chemistry; elementary Botany. But for students who are not candidates for a degree the law faculty advises young gentlemen not to begin their legal studies until they have completed an academic course approximating that ordinarily required for degree of Bachelor of Arts. Washington and Lee University has no academic requirements even for her degree of Bachelor of Laws. Kentucky has no academic requirements. Ohio requires a "preliminary education equivalent to that received in the public high schools of this state." Pennsylvania requires that the candidate must pass a preliminary examination in English language and literature, outlines of universal history, history of England and the U.

S., arithmetic, algebra, through quadratics, plane geometry, modern geometry, modern geography, the first four books of Caesar's Commentaries, the first six books of the Aeneid and the first four orations of Cicero against Cataline."

This Association will doubtless remember that at its last meeting it adopted a resolution referring this whole matter of admission to the bar to the committee on legislation, the supreme court of the State and the board of examiners and that these three bodies recommend in the shape of a bill to the next legislature a more definite method of procedure in the matter of admission of candidates for the bar in the State. There seems to be no chairman to this conglomerated committee, and of course the committee on Legal Education can not call it together. This whole question, therefore, of admission to the bar seems to be before the Association this year as it was the last.

Respectfully submitted,

ST. GEORGE T. BROOKE,
C. W. DAILEY,
B. L. BUTCHER,
J. W. EWING,
I. E. ROBINSON,

Committee.

APPENDIX V.

The Report of the Committee on Judicial Administration and Legal Reform.

To the West Virginia Bar Association:

The Committee reports upon three subjects—The Electorate, Special Judges and Relief of the Supreme Court.

The Electorate.

In the past five years a notable reform has been evidenced in many parts of the nation. An aroused civic pride and virtuous indignation against patent abuses have evoked latent forces that are irresistible when once brought into action. In more than one place we have witnessed the overturn of the insidious form of combination, which, among the seekers of public place and pelf, joins the objectionable features of monopoly with schemes of plunder against collective society. Cities and states have been redeemed from organized criminals masking under party names and engaged in predatory patriotism.

Political trusts are more harmful than their commercial relatives. The main features in both classes, though called by other names, are accompanied by the same sordid, shamelessness, with perhaps the difference, that the pecuniary motive is avowed in channels of trade, while the traffickers in spoils profess to be led solely by the spirit of Jefferson, of Lincoln, of Roosevelt, or other respected statesmen. Whether tyrannical lawlessness is oppressive in the sphere of industrial enterprise, or in that of public affairs, we find but manifestations of the same spirit; the same individuals are often leagued for like purpose in both fields; and public powers are prostituted or paralyzed, for the aid and protection of the unworthy. They rely upon each other, and find common interest in the exploitation and injury of the many who from negligence or ignorance, submit to outrages that they have full means for redress.

Reckless raking of muck has occasionally become nauseous. Sensational charges have done harm where unjust. Recriminations and exposures have fed discontent with unhealthy contempt for the existing order; but it is also true that real causes of grievances have been uncovered, and the most conservative must deplore the existence of conditions that arrest and appall. Vigorous demonstrations of recent months have made plain the horrors and the methods of commercial trusts; but a realization of the workings of political trusts has not become epidemic, although they are recognized in some communities as systemised crime, officered by conspirators who have the strongholds and the forces that unselfish labor and sacrifice once provided for the commonwealth. We may concede, for the sake of argument, that our State has not been affected by the influences of the new Era because no awakning is needed, but we should still safeguard all that is good. The root of the matter calls for recurrence to first principles. Politics in the sense of partisan

scramble, should be excluded from our Councils, but politics in the broad sense is devolved on this Committee by its title. We propose, therefore, to present some considerations that should be pressed home upon this Association, because we have assumed the grave responsibility of undertaking problems for which spoilsmen care not at all, and to correct abuses by which they thrive.

The address of our President last year, Judge Mason, riveted attention upon the ballot; upon the "corruption, bribery and fraud prevailing to an alarming extent among voters." He showed the evil effects, the temptations and the demoralization amongst those who are bad and corrupt, and illustrated the depth of the wrong, and the dangerous indifference on the subject, by referring to a fact notorious to all of us—that even religious bodies which are pledged to the duty of uplifting and of guiding to better things, are merciless in blackmailing candidates. Judge Mason also pointed out the necessity for a registration law; the enormity of herding illiterate foreigners through the courts in pretended naturalization, the Sinister twistings of the law, the snares used by the designing; the deadening blows at decency and the natural distrust of officers in any department, who are elevated by such methods; and he concluded that the most effective means of preventing violations of law and fraudulent practices, is by an appeal to the public conscience; and in that connection, used this language: "If the gentlemen of the Bar in every part of this state would solemnly adjudge, order and decree that hereafter we should have a free ballot and a fair count," it will be done. "The grafter, the briber, the bribe taker, the ballot-box stuffer, the corrupt poll clerk, and the debauched return board, would then retire."

Your Committee at the session of 1904, said: "Most crimes arouse public indignation, and popular sentiment demands redress, but our laws against bribery in nominations and elections are not enforced, and the effect is in every way demoralizing. There should be no class of licensed criminals. There is no power to grant dispensation to enemies of popular government. Where things are so managed that public powers are purchasable, the people are ruled by those who rise by crime. If we hope to retain purity in the courts, honesty in juries, and manhood at the bar, we must line-up distinctly, and as a unit, against this monstrous iniquity. The lawyers constitute the only profession, each of whose members take oath for a life service to the state, to uphold and support her laws.

"If in each county in West Virginia, our lawyers should seriously determine and agree that bribery and corrupt practices at elections shall cease, the thing would stop. The evil has been successfully met in other parts of the world." And it was recommended that a Committee on "Election, Bribery and Corrupt Practices" should be appointed, with direction to report facts and suggest remedies.

Up to this moment nothing has been done by the lawyers, in that direction.

A distinguished Circuit Judge, known to all of us, by reputation, at least, writes: "I don't see how to secure fair elections. We cannot enforce the law. Court officials and grand jurors seem to fear the 'practical politician.' It seems impossible to even get indictments for the most flagrant violation of election laws. It may be that the officers and jurors are particeps criminis." This statement would probably be true of many Circuits; and where it is true, there is no popular election of representatives.

Where people believe that they have no choice in the naming of persons who shall stand for office; or where the people conclude that certain men, for some undisclosed reason, get themselves to the front and perpetuate their hold in spite of popular preference, or, at least, without

regard to popular favor, there is more than a suspicion that there is something in the opportunity, of great value; and as the people are without hope of having their own interests represented, they conclude that they had better get what they can out of the fellows who are interested. Hence, we find a loose idea that the candidate, when bled, is not shedding his own blood.

On last analysis; the idea that a candidate for office is seeking to perform a public service, is not generally entertained by the public, and very rarely by the candidate. The voter does not feel that he is sending a representative or an agent to some office or body, to represent the interest of the voter. Few regard the putting forth of a man for public office in the spirit prevalent when the command of the American forces was laid upon Washington. It is known that many persons who get the largest share of public funds, are not employed by either State or Federal Government, but deal in public plunder and farm revenues, making merchandise of things that should be sacred.

The corrective for all of this is a showing of the dangers, and the results. The voter ought to know that his selection of an agent to represent him in any department of government should be like the selection of an agent, servant or representative, in other transactions.

In the suit now pending between Virginia and West Virginia in the Supreme Court of the United States, involving a claim exceeding fifteen millions of dollars, exclusive of interest, extreme measures would be taken, if an attempt were made to send corrupt or incompetent counsel, to defend the interests of the state in that law suit; and if it were known that some lawyer was buying that employment, that fact would be ample proof of his unworthiness, and universal protest would be loud and prompt.

All will agree that the representative of the State before the Supreme Court must be worthy of trust, and thoroughly competent for the place. But how is it with reference to aspirants for place in other departments of the public service?

There is a large class of voters who regard those offices as being so remote from their concern, and as being so distinctly personal to a candidate that the man is regarded as mean and ungrateful who should seek eminence without paying generously for the opportunity.

Is it not possible to impress upon the people the sacredness of the elective franchise? They should understand that it is at least as important to send a man they can trust, to high office, as to employ him as an agent before a Justice of the Peace. No magisterial district would countenance a pettifogger who sells out before a justice; and yet these same people are not shocked to learn that other persons delegated by them have betrayed their trust.

Generations have passed since this Government was founded on the right of representation. We have forgotten what it cost, and at times seem willing to sacrifice all that it is worth. The Fathers demanded representation as a condition of taxation. We still have taxation, the thing that most attracts spoilsmen, and a favorite toy for misleading the masses; but actual representation is mostly a faded dream. Certainly where the enemies of good government are entrenched through the form of an election; where the voters have nothing to do with naming the candidates—there is a fearful miscarriage and reversal of reasonable expectations. With vast accumulations ready to buy power, and vast hordes of men who neither think nor appreciate the paramount importance of the judicial office, there is special cause for extraordinary endeavor on the part of the lawyers to keep subjects like these well to the front; because, otherwise our institutions will be ground between the upper stone of swollen wealth, and the lower stone of irresponsible numbers.

We must revive popular interest, and get back to representation often declared to be the inalienable right of freemen.

We would recommend the re-establishment of popular representation by some system of nominations that will give the people a sense of satisfaction in expressing their choice, and a sense of responsibility in making it.

We suggest each local Bar Association press this question in its own County; that each member of the Association, as occasion may offer, shall throw his weight and influence on the side of pure elections; that those of our members who belong to other organizations, shall urge the subject as far as can consistently be done, in that direction; and more than all, that they give their thought and their time to the repression of the evil in the communities where they live.

We might recommend that the duty of the lawyer as a citizen, with regard to the protection of the ballot, should be added to the Code of Ethics which we have adopted as a body; but that would be an insult to each member, because every man admitted to practice law in this State, has already sworn to support these laws.

Our laws covering violations of election law are now a dead letter—they should be enforced, and we recommend that this Association pass a resolution urging upon the Legislature the enactment of a law for primary elections or other fair system, enabling the citizens to select candidates and to express their sentiments in free and deliberate choice.

Special Judges.

Your Committee recommends that legislation be enacted at the coming session of our Legislature looking to the abolition of the necessity, or practice, rather, of electing special Judges to preside at the trial or hearing of causes where the Judge of the Circuit Court is absent or for any reason disqualified to preside.

Your Committee does not believe there is any necessity for the selection of special Judges, if a statute shall be passed requiring that in any case where the Judge of a Circuit Court cannot preside, he shall, upon request of any party interested, call upon the Judge of some other circuit to preside at such trial or hearing, and making it compulsory upon the Judge so called upon or requested, to go to such other circuit and preside at the hearing or trial of such cause.

Prior to the statute of 1873 providing for the selection of special Judges, there had been no difficulty in having an exchange of circuit Judges when, for any reason, one of the Judges was disqualified, although the law before that time did not in terms make it mandatory that such exchange should be made.

The code of 1819 provided for an exchange of Judges of the General Court, and this provision was carried into the code of 1849, the code of 1860 and the code of 1869, and the statute required that where such exchange was made, it should be by a written agreement, to be recorded in the court in which each of them should first sit under such exchange, and such agreements are on record at Clarksburg between the Judges of the General Court and afterward between the Judges of the Circuit Court, one of them being on record for the year 1842, made between the late Edwin S. Duncan, former Judge of this circuit, and Honorable Elisha McComas, who was Judge of the Kanawha circuit.

In Pennsylvania, as we are informed by attorneys of that state, the presiding Judge of one District is compelled to go to another District at the call of a Judge, who, for any reason, is disqualified from sitting or presiding at a trial or hearing, and your Committee deems it better policy that courts should be held by regularly elected Judges, rather

than by Judges manufactured to order of varying shades of ability and character under the present loose and undignified method. Some of your Committee have seen, upon the same day, two or three special Judges presiding, at different times, of course, in the same court, some of whom, in point of ability, possibly might grace the position of Justice of the Peace in a back district, but who were out of their native air when sitting upon the circuit bench.

We think there is no doubt of the further fact that the present system tends to depreciate and to belittle the office of Judge in the eyes of the public.

One of your Committee once heard the late George H. Lee, one of the ablest Judges that ever graced the Virginia bench, and who also presided as the Judge of this circuit, succeeding the late Judge Duncan, tell, with much gusto, the story of an incident that occurred in the town of Beverly when the first election in Virginia of Judges by the people occurred, which was in 1852. There was a candidate for Constable in Beverly, whose name is forgotten, that had a zealous friend in his behalf who approached a member of the bar, who was a warm advocate of the election of Judge Lee, then a candidate for Judge of the Court of Appeals, with the proposition that, if the friend of Judge Lee would vote for the candidate for Constable, the friend of the candidate for the high office of Constable would vote for Judge Lee. This pretty fairly represents the interest that a great many of the voters of the state feel in the election of a Judge, and we do not think the present method of creating Judges by passing around a hat into which ballots are cast by possible three or four, or perhaps twenty or thirty members of a local bar, conduces to public appreciation of the importance of the judicial office.

The Constitution of 1863, article 6, section 5, provided that, "The Judges may be required or authorized to hold the courts of their respective circuits alternately, and a Judge of one circuit to hold a court in any other circuit." The Constitution of 1872 does not use quite the same language, but provides that a Judge of any circuit may hold the courts in another circuit, and section 15 of the same article provides that, "The Legislature shall provide by law for holding regular and special terms of the Circuit Courts, where, from any cause, the Judge shall fail to attend or, if in attendance, cannot properly preside." It is under this clause that the Court of Appeals held that special Judges may be elected in the manner provided by the statute—a pretty dubious clause, we think, for such legislation, but the same section would clearly authorize compulsory attendance by the Judge of one circuit to hold the courts of another circuit, when requested in the manner we have indicated, and we think, for the reasons we have stated, a statute of this kind should be passed.

If necessary, the present statute might be permitted to stand, so far as it allows litigants to agree upon a special Judge, but we doubt the propriety of this concession, and we think the administration of justice and the proper upholding of the dignity of the office would be better subserved by adopting the system we have outlined.

The system of electing special Judges is a Western idea, followed by a very limited number of states, and it is a radical departure from the jurisprudence and policy of the older states of the union, the bars of which have generally set too high a value upon the importance of the judicial office to adopt any such loose, populistic method.

Your Committee therefore recommends that a statute be passed whereby the system we have outlined may be carried into operation.

Relief of the Supreme Court.

It is the duty of the State to provide a sufficient number of Courts and Judges, in order that the public business may be promptly transacted

without imposing grievous burdens upon the judges. Delays are often injurious and sometimes ruinous to litigants.

The imposition of unreasonable labor upon the Judges is unjust. The crowded condition of the docket of our Supreme Court, and the rapid increase in the number of cases filed in that Court, make it, in our judgement, absolutely necessary that some relief be afforded it.

The existing conditions may be seen from the following:—

Record of Cases in Supreme Court of Appeals of West Virginia, Showing Number Docketed, Etc., For Years Ending September 30th.

	1903	1904	1905	1906
Appeals Docketed	148	196	201	234
Appeals Decided	133	137	183	160
Appeals Dismissed	17	13	10	9
Appeals Refused	41	54	85	115
Appeals Pending September 30th	172	157	295	333
Days in Session	200	205	261	223

We seem to have reached a point where measures should be taken to relieve the strain. Several propositions to that end have been considered without agreement in the Committee:—

1.—An intermediate Appellate Court, with limited right of appeals to the Court of last resort;

2.—A limitation of the class of cases in which appeal will lie;

3.—The creation of a Special Commission under appropriate designation.

Your committee submits this general subject, without indicating a specific remedy, in order that the facts may be understood, and the way opened for proper action.

Respectfully,

B. M. AMBLER, Chairman.

APPENDIX VI.

Report of Committee on Grievances.

To the West Virginia Bar Association.

The Committee on Grievances begs leave to report that there have been no complaints of any kind brought to the attention of any member relating to the professional conduct of the fraternity.

The Committee has kept both eyes and ears open for the reception of complaints, matters of grievances and other matters coming within the scope of its duties and which ought to be brought to the attention of the profession.

By the kindness of Gen. Caldwell of the Ohio County Bar Association the Committee has received the history and results of an investigation set on foot and carried to a successful termination by the members of the Bar of that County for unprofessional and dishonest conduct against a member of said Bar in which the delinquent member was convicted and disbarred.

The case was carefully and dispassionately handled and fully heard and the members of the Ohio County Bar have reflected credit upon themselves by the manner in which they have been careful to discipline unprofessional conduct and to weed out dishonest and unworthy members.

The profession cannot be too jealous of its honor. Just here the committee would urge upon the members of the Bar in each county the propriety and importance of organizing County Bar Associations in each county as adjuncts and auxiliaries to this Association. Such organizations tend to elevate the profession, to eliminate undesireable material and to inspire the confidence of the public.

In the course of time every member of the Bar in the State, worthy of admission and standing in the profession should be enrolled both as member of the County Association and of this Association.

Since the last annual meeting of this body, the 57th volume of the Supreme Court decisions has been placed in the hands of the profession. This report brings down the official decisions to the 25th of April, 1905. So there is a period of twenty-one months during which we should have had no reports of the actions of the Supreme Court were it not for the publications of the South Eastern Reporter. How much longer we must wait for the 58th Report we know not.

We do think this delay in the publication of our State reports is inexcusable. The people are entitled to every expression from our highest court as speedily as possible after deliverance.

The laws of the people both statutory and otherwise should be in their hands at the earliest possible moment. The Bar is entitled to enquire the reason of this long delay. It constitutes a real grievance and we commend this matter in good faith to the powers that be.

In many of the counties of the State civil business is delayed by the criminal docket. Is it not time that there should be some relief for civil suitors by the creation of criminal circuits for the purpose of relieving the Circuit Court entirely of all criminal matters? This matter is submitted to this body in a tentative way.

Respectfully submitted,

THOS. P. JACOBS, Chairman.

APPENDIX VII.

Report of Committee on Legal Biography.

To the State Bar Association:

The Chairman of your Committee on Legal Biography has endeavored, by writing to each member of the Committee, to obtain information as to the decease of any members of this Association who may have died since your last meeting; but, up to this writing, but two replies have been received. The Committee, however, has been able to make the following report:

Judge Thayer Melvin.

Judge Thayer Melvin, one of the Judges of the First Judicial Circuit, was suddenly stricken down and died on Friday, the 9th day of November, 1906. Judge Melvin's name and character, both as a Judge and as a man, was not only well known and recognized in the Circuit in which he so long occupied the Bench, but known and honored throughout the entire State of West Virginia.

He was born and reared in the village of Fairview, in that part of Brooke County which, in 1847, became the County of Hancock. He was the son of James and Philenia Melvin, the former a Pennsylvanian, of North Ireland stock. He was the oldest of five children and received a fair English education at the common and high schools of the vicinity and, at the age of 17 years, began the study of law and was licensed and admitted to practice in the year 1853, at the early age of 18 years. He began his legal career in his native county and, in 1855, was elected Prosecuting Attorney, which office he held for full terms, in 1856 and 1860, although from 1857 he resided in the City of Wheeling, having become associated in the practice with Jos. H. Pendleton, a distinguished lawyer of that day.

Soon after the breaking out of the Civil War, Thayer Melvin enlisted in Company "F" of the First West Virginia Volunteer Infantry and there served for several months, first as Orderly Sergeant and then as First Lieutenant of his Company. Very soon he was commissioned Assistant Adjutant General of Volunteers, which position he filled until 1865, when he was honorably discharged from the Army with brevets for meritorious services in the line of duty.

In 1866, he located in Wellsburg and was again elected Prosecuting Attorney of Hancock County, but was soon thereafter nominated and elected to the office of Attorney General of the State, which office he held until 1869, when he resigned to accept a commission as Judge of the First Judicial Circuit, to fill a vacancy caused by the death of Judge E. H. Caldwell.

In the meantime, he had taken up his residence again in the City

of Wheeling, and under an appointment from the Governor, assisted in completing the codification of the laws of the State.

In 1872, he was elected Judge of said Circuit for the full term of eight years and in 1880, was elected one of the two Judges to which said Circuit was then entitled. He resigned his position as Judge and entered upon the practice of law in Wheeling, becoming a member of the firm of Ewing, Melvin and Riley.

In 1889, upon the death of the late Judge J. R. Paull, he was appointed again to his old position, upon the most earnest and unanimous request of the members of the Bar of the Circuit.

At the next election, he was nominated by both political parties and elected to the position he had so long and honorably held, and continued in the discharge of the duties until death called him away. On the 31st. of October, 1906, whilst engaged in the discharge of his Judicial duties in the County of Brooke, he suffered a stroke of paralysis, which terminated fatally on the 9th day of November, 1906.

Judge Melvin was a learned lawyer, a wise counsellor, an able and eloquent advocate, a brave soldier, a warm, devoted friend and an exemplary and patriotic citizen; but he appeared to the greatest advantage on the Bench as a Jurist. His knowledge of the law, his literary attainments, his powers of discernment and wonderful judicial temperament made him an ideal Judge, and one respected and honored. He was a man of great energy, of courage indomitable, honest and firm in his purposes and decisions, yet with a heart, warm and pure, and abounding in love for his fellow man.

No wonder that such a man so well honored both Bench and Bar. No wonder that his decisions as a Judge were so respected. No wonder that men loved and honored him. No longer will he go in and out before us. No longer will his genial smile welcome us. No longer will his warm hand grasp greet us. No longer will he sit with dignity upon the Bench and decide between man and man. No-no, for he has gone—gone from us forever.

We buried him in the old family graveyard at Fairview beside his father and mother, and left him there, the wintry winds singing his requiem.

Henry Clay Simms.

Henry Clay Simms, the senior member of the firm of Simms and Enslow, attorneys for the Chesapeake & Ohio Railway Company, for the State of West Virginia, was a member of this Association for many years; a man of high character and of recognized legal ability. He died suddenly on the 6th day of December, 1906. Mr. Simms came of old Virginia stock, of Scotch Irish ancestry, and was born June 11, 1847, in Kanawha County, now West Virginia, near Scary. He was a son of Robert Marshall Simms, born in Culpeper County, Va., and a grandson of Henry Simms, who was also born in Virginia. His mother was a daughter of John Nalle, who died during the Civil War. Mrs. Simms died in 1897 aged 79 years. Henry Simms, the paternal grandfather came to Kanawha County in 1817 and resided there until his death in 1849. He secured a fine farm on the Kanawha River, which is still in the possession of the family, it was part of the military grant to Henry Banks. Henry Simms married Margaret Marshall, a niece of Gen. Humphrey Marshall, of Kentucky. Both he and the paternal grandfather of our subject were staunch Whigs.

Robert Marshall Simms was born Aug. 13, 1813, in Culpeper County, Va., and died at the old home in Kanawha County, West Virginia, in Oct. 1891. Prior to the Civil War he was active in the Whig party, and after its close was a Protection Democrat. Henry Clay Simms of this

sketch was one of a family of six children born to his parents. Mr. Simms secured his primary education at home from a governess, who prepared him for entrance to the Monongalia Academy, in 1865. Two years later he entered Marietta College, and in 1869, went to Harvard and completed his law education there, being a member of the graduating class of 1872. The high esteem in which he was held by his associates there was evidenced by his election to the vice-presidency of the Harvard Law Association.

Mr. Simms was admitted to the Bar of West Virginia in 1872 and his first partnership was formed with Eustace Gibson, afterwards Congressman from this State, under the firm name of Gibson and Simms, which continued from 1873 to 1876. In the latter year he formed a partnership with Frank B. Enslow under the style of Simms & Enslow. They engaged in a general law practice, in addition to representing the interest of the Chesapeake and Ohio Railway Company, in West Virginia.

Mr. Simms married Katherine F., daughter of W. A. Lyons, who came to Huntington in 1879, in the employ of the Standard Oil Company, and who died some years since. The three children born to this union are Henry, a graduate of the West Virginia University, and a practicing attorney in Huntington, Robert Marshall and Mary.

In 1876, Mr. Simms was a delegate to the Democratic National Convention that nominated Samuel J. Tilden for the Presidency, and in 1880 was a delegate from West Virginia to the Convention at Cincinnati where General Hancock was nominated for President.

Wm. McGregor Hall.

Another member of this Association, loved and honored by those who knew him, passed away since our last meeting, in the person of Wm. McGregor Hall, late of New Martinsville, in the County of Wetzel.

Through the kindness of another, your Committee is enabled to present the following Biographical sketch of Mr. Hall:

He was the second son of the late Hon. Leonard S. Hall and Jeannette (McGregor) Hall, and was born on the 6th day of January, 1851. The early years of his life were spent at New Martinsville, West Virginia, where he received the rudiments of an education in the public schools. At the outbreak of the Civil War, his father, who had been elected a member of the Secession Convention of Virginia, went to Richmond to attend that Convention and cast his lot with the Southern Confederacy, which incident severed the family ties for four years, and threw the subject of this sketch with the other members of the family upon their own resources. After the close of hostilities he joined his father with the other members of his family at Richmond, Virginia, where he remained for a few months. Returning to his native section of the state he went in the employ, as a mere boy, of his uncle, the late Senator David McGregor, of Cairo, Ritchie County, W. Va., where he received his first commercial training and experience in his uncle's store and in the B. & O. Railroad Station at that point. By his savings and the assistance of his uncle David, he was enabled to attend Marietta College at Marietta, Ohio, where he received his collegiate education. At the close of his college work he entered upon merchantile life and engaged in business for several years.

All during his childhood and college days and up to the time of his death he developed and encouraged his taste for literature by continuing at all times a course of reading, and long before he had concluded to adopt the profession of law he was a fairly well read lawyer. About the year 1881 or 1882 he purchased the interests of the other members of the firm of Oxnard, Hall & Co., and continued the mercantile business in

his own name until about the year 1892. By this time he had accumulated a reasonable competence, and he felt that he could withdraw from the mercantile business, which was always more or less a drudgery to him, and adopt his chosen profession to which he had looked forward for many years, towit, the profession of law. So in the latter year he closed out his mercantile business and entered with zest and hope upon the completion of his law studies, and on the 5th day of January, 1893, he was admitted to the Bar. Being at this time a man of mature judgment and wide experience and acquaintance, it was but a short time until he had a fair practice. On April 1st, 1897, he and his brother S. Bruce Hall, who had been practicing in the same town, New Martinsville, W. Va., since 1884, formed a law partnership under the firm name of Hall and Hall, which partnership continued until the death of Wm. McGregor Hall.

During his busy life, Wm. McGregor Hall was honored with many positions of trust by his fellow citizens and associates and for several years was President of the Board of Education of Magnolio District and was principal organizer of the Magnolio High School in the town of New Martinsville, which is the oldest High School in the State of West Virginia. Upon the organization of the local Bar Association of Wetzel County, several years ago, Mr. Hall was unanimously elected as its President and was successfully elected as such each year until his death.

He was an active member of the Masonic and Odd Fellows fraternities, and of the Episcopal Church. He held his profession in high esteem and always endeavored to uphold its honor, and was a close observer of legal etiquiette.

Lewis Armstrong Yaeger.

The fatal destroyer suddenly cut down a young member of the Bar at Morgantown, in Lewis Armstrong Yaeger, the announcement of whose death created profound shock amongst his many friends and acquaintances, and profound sympathy for his young wife and family is felt.

"Lou" Yaeger, as he was usually called by his friends, was born at Marlinton, in the County of Pocahontas, Sept. 10th, 1878. He was educated in the schools of his County and, at the age of 16 years, held a teachers' certificate of the First Grade. At the age of 17, he entered the preparatory department of the West Virginia University and, in the year 1900, was graduated with a decree of Bachelor of Arts in law. "Lou" Yaeger was almost a perfect specimen of physical manhood and became prominent as an athlete whilst at college.

He began the practice of law in Morgantown, in February 1901. About a year later, he formed a law partnership with C. W. Cramer, which partnership continued until the year 1905, when Mr. Cramer entered upon the duties of his present office, that of Prosecuting Attorney.

In the year 1903, Mr. Yaeger was married to Miss Elizabeth Lynn Harvey, daughter of Professor and Mrs. John I. Harvey, of Huntington. She survives him. His parents, Mr. and Mrs. B. M. Yaeger, of Marlinton, his two brothers, Dr. John M. Yaeger, of Marlinton and Walker Yaeger, of Marlinton, and his sister, Mrs. Brandshaw Sharpe, whose husband is a lawyer at Chattanooga, Tenn., also survive him.

Mr. Yaeger was very successful in the practice of his profession. He was elected Recorder of the City of Morgantown and, at the conclusion of his term, was chosen City Solicitor.

He was genial, companionable in his nature, loyal to his friends, and possessed a fine, discriminating power of judgment, which always gave great weight to his opinions.

His death tells how true it is "That in the midst of life, we are in Death."

B. F. Meighen.

The Chairman of your Committee has made earnest endeavors to get a proper sketch of the life of the late B. F. Meighen, of the Moundsville Bar, but though such sketch has been promised, it has never come to hand.

B. F. Meighen was born in Greene County, Pennsylvania. He received a common school education and, being a young man of energy and ambition, fought his way upward until he became a teacher in the Public Schools in Marshall County, West Virginia. Whilst engaged in the profession of teaching, he studied law and located in Moundsville as a partner of the late Robert McConnell. After the death of Mr. McConnell, a partnership was formed between Mr. Meighen and the late Chas. R. Oldham.

Mr. Meighen was quite successful in his business affairs, and with management and prudence had acquired considerable property. He died comparatively a young man in Colorado, whither he had gone, hoping to build up a constitution broken down by disease. His remains were brought back to Moundsville and there buried, and it was said that his funeral was one of the largest ever known in that city. He was a popular man; mingled well with all classes of people and enjoyed the sincere friendship of very many. Mr. Meighen was a Republican in politics and had the ambitions for public places. How many positions he may have held, the writer is not advised; but he remembers that he was for a long time one of the Directors of the Insane Assylum at Weston.

Respectfully submitted,

ROBERT WHITE, Chairman.

APPENDIX VIII.

Report of Committee on Legislation.

To the West Virginia Bar Association:—

The Committee on Legislation respectfully reports that it has under consideration the several matters which were heretofore referred to it by members of the Committee, and it begs leave to make the following report:

1st. As to the recommendations relating to reforms in the election law contained in the address delivered by Judge Jno. W. Mason at the last meeting of the Association, your Committee has prepared a bill relating to the preparation and marking of the ballot by the voter which is intended to carry out the recommendations contained in said paper upon that point, and herewith submits said bill for the action of the Association. (See Bill 1, infra.)

2nd. In connection with the said last mentioned bill and as germain to the subject thereof your Committee has had under consideration the subject of the adoption of a general direct primary election law for the State of West Virginia, and reports that it believes the Legislature ought to adopt such a law. And your Committee herewith recommends for the consideration of the Association the bill providing for direct general primary elections in this State prepared by Mr. McCamic, a member of this Committee, being the same bill which was passed by the House of Delegates at the last session of the Legislature but which failed in the Senate. Your Committee recommends that this bill, or some bill of similar import or having the same general object in view, be approved by this Association and recommended for passage to the Legislature.

3rd. As bearing upon the same general subject of reform in our election laws and improvement of the public service, your Committee also recommends that the offices of Sheriff, Clerk of the County Court and Clerk of the Circuit Court be placed upon fixed salaries, and that all fees and other purquisites now belonging to said offices be turned into the public Treasury. A bill for this purpose has been prepared by Mr. McCamic, but for want of time your Committee was unable to fully consider it and so merely calls attention to it.

4th. The paper of Mason G. Ambler relating to the prevention of waste and to the transportation of natural gas and to the preservation of the forests of the State, which was read before the last meeting of the Association, was referred to your Committee, and the Committee has thought best to prepare two bills as to gas,—one covering the waste of gas and the other relating to the pumping of gas by artificial means and regulating the transportation thereof. The Committee submits a bill to prevent the waste of gas and recommends that it be approved by the Association and recommended to the Legislature. (See Bill 2, infra.)

The subject of the pumping and transportation of gas is one upon which your Committee is not agreed, for the matter is beset with many

difficulties, but your Committee has prepared a bill upon the subject which it submits to the Association without recommendation. (See Bill 3, infra.)

Your Committee has also prepared two bills upon the subject of the preservation of the forests of the State;—One giving the consent of this State to the condemnation by the U. S. Government of forest lands for a National Appalachian Park or Forest Reservation, (See Bill 4, infra), and the other making provision for co-operation between this State and the Forrestry Department of the U. S. Government for the investigation of the forestry conditions in this State, for the purpose of recommending a policy to be adopted by the State for the conservation of our forests. (See Bill 5, infra). This is the preliminary step recommended by the U. S. Forestry Department and one that has been taken by a number of the States of the Union. The Committee recommends that these forestry bills be approved by this Association and recommended to the Legislature for passage.

All of which is respectfully submitted,

GEO. E. PRICE,
CHAS. McCAMIC,
MASON G. AMBLER.

Supplemental Report:

Your Committee also recommends that the Association adopt and urge upon the Legislature for passage, the Negotiable Instruments Law, which has, your Committee believes, been approved by this Association at a previous meeting. A copy of said law is herewith submitted.

W. W. BRANNON,
CHAS. McCAMIC,
MASON G. AMBLER.

Bill 1 (Relating to the Ballot.)

A Bill to Amend and Re-enact Sections 34, 44 and 60 of Chapter 3 of the Code of West Virginia, Concerning Elections by the people for State, District, County and Other Officers.

Be it enacted by the Legislature of West Virginia that Sections 34, 44 and 60 of Chapter 3 of the Code of West Virginia, concerning elections by the people for State, District, County and other officers, be amended and re-enacted so as to read as follows:

34. All ballots prepared under the provisions of this chapter shall be printed on white paper of uniform size, of the same quality, and sufficiently thick that the printing can not be distinguished from the back; and shall contain the name and residence of every candidate whose nomination for any office has been certified or filed according to the provisions of this chapter, and no others. The names of all candidates nominated by each political party, respectively, shall be printed upon the ballots in columns, one column for each political party, each column containing the names of candidates nominated by the same political party, and no others; and if any candidate be nominated by a convention or primary election for any office, the name of any other candidate nominated in any other way provided for in this chapter, for the same office, shall not be printed on the ballots in the same column with the name of said candidate nominated by said convention or primary election; and the candidates shall be arranged in groups under the designation of the offices for which they are respectively nominated. At the head of each column of political party nominations shall be printed in clear, bold type, the name of the political party (or principle) which the candidates represent, as contained in the certificates of nomination; and sub-headings may be placed over each group to indicate the political division for which the respective groups are to

be elected. The several ballots to be voted at any election shall be printed side by side on the same sheet of paper, the Democratic ballots on one side thereof and the Republican ballots on the other, and the other ballots, if any, between them, with one black line between each of them, and all candidates or persons voted for by any voter, shall be those whose names are printed or written as aforesaid thereon. There shall be a blank square space at the head of each ticket on the ballot sheet, and immediately to the left of the name of each candidate there shall be left a blank square space. If a voter desires to vote a straight ticket he may do so by defacing every other ticket on the ballot sheet, except the one he desires to vote, by drawing one or more lines with pen and ink or indelible pencil from the top to the bottom thereof or across the heading thereof or in any other way indicating that the same has not been voted by the voter. If the voter does not desire to vote a straight ticket he may put a cross mark in the square space at the head of one of the tickets on the ballot, which shall indicate that he intends to vote all the names on that ticket, except where he has placed a cross mark in the blank space to the left of the name of any candidate on any other ticket on the sheet, and wherever he has placed such cross mark on any other ticket, his vote shall be counted for that candidate instead of the corresponding candidate on the ticket, at the head of which he has placed the cross mark as aforesaid; or if he prefers instead of making a cross mark at the head of one of the tickets, he may make a cross mark in the space at the left of every name that he intends to vote for on the ballot sheet; in which case the vote shall be counted for only those candidates whose names are marked with a cross in the space to the left as aforesaid. In any case if the voter does not desire to vote for a candidate on any ticket, he may erase the name from the ticket by drawing one or more lines through it. In such case the vote shall not be counted for such name, nor for any other corresponding name on either of the other tickets, unless he has indicated he desires to vote for such other name by making a cross in the blank space to the left of such other name.

44. The board of ballot commissioners of each county shall cause to be printed in large, clear type, on cards, instructions for the guidance of electors in preparing their ballots. They shall furnish twelve of such cards to the commissioners of election at the same time they deliver to him the ballots for his precinct. The commissioners shall cause to be posted, one of said cards in each place or compartment provided for the preparation of ballots, and the others in and about the polling place, and one or more of the cards outside of the sixty foot line provided for in this chapter, upon the day of election. Said cards shall contain full instructions to the voters as to what shall be done: (1) to obtain ballots for voting; (2) to prepare the ballots for deposit in the ballot boxes; (3) to obtain a new ballot in place of one accidently spoiled; also, a copy of sections fifty, sixty-two, seventy-six, seventy-nine, eighty-one and eighty-two of this act. Said ballot commissioners shall also cause to be printed on colored paper the same number of copies of the ballots as the regular ballots provided for each voting place, at each election therein, which shall be called speciment ballots, and which shall be placed at some accessible point outside of the sixty foot line from the voting place. And one copy shall be furnished to each voter, who shall apply therefor, and each voter shall have the right to take such specimen ballot with him into the booth and use the same in the preparation of his regular ballot for voting. And he may procure such assistance as he desires in preparing his speciment ballot, outside of the polling place, before he goes in to vote.

60. Any voter, who by reason of physical disability is unable to prepare his ballot, may call upon the poll clerks to prepare his ballot for him;

and thereupon he and the two poll clerks shall retire to one of the booths and said poll clerks, in the presence of the voter and in the presence of each other, in said booth, shall prepare his ballot for voting as requested by him, in the manner hereinbefore provided, and on request shall read over to such voter the names of the candidates on the ballot as so prepared. Any poll clerk who shall deceive any voter in selecting or preparing any ballot, or prepare the same in any other way than as requested by said voter, or who shall reveal to any person how said voter has voted, shall be guilty of a felony, and on conviction thereof shall be imprisoned in the penitentiary for not less than two nor more than five years. And no voter shall receive any assistance in preparing his ballot merely because he cannot read or write, but such assistance shall be rendered only where a voter is unable to prepare his ballot on account of blindnss or such physical disability as renders him unable to make the necessary marks upon his ballot. And no ballot shall be prepared either by the voter or the poll clerks anywhere else except in one of the booths as hereinbefore provided.

Bill 2 (Relating to Waste of Natural Gas.)

A Bill to be entitled.

An Act for the Promotion of Public Welfare and Safety from Dangers Arising from the Production and Use of Natural Gas; Prohibiting the Use of Flambeau Lights, and Prescribing the Manner in which "Jumbo" or other Burners may be Used; Prohibiting any Person or Persons Setting Fire to any Gas Escaping from Wells, Broken or Leaking Mains, Pipes, Valves, or other Appliances, Used by any Person, Company or Corporation in Conveying Natural Gas to Consumers, or from Interfering in any Manner with the Wells, Pipes, Mains, Gate-boxes, Valves, or other Appliances, Machinery or Property of any Person Engaged in Furnishing Natural Gas to Consumers; Prohibiting any Person in Control of Oil or Gas Wells, to Allow Oil or Gas to Escape Therefrom; Providing for the Plugging of Abandoned Wells; Providing for the furnishing of properly tested Meters to Consumers; and Prohibiting the Manufacture or Use of False Meters; Creating the Office of Natural Gas Supervisor, and Fixing his Salary, and Appropriating Money for his Salary and Expenses, and Prescribing his Duties; and Providing Penalties for Violation of any of the Provisions of this Act.

Sec. 1. The use of natural gas for illuminating purposes, in what are known as flambeau lights, is a wasterful and extravagant use thereof, and is dangerous to the public good, and it shall therefore be unlawful for any person or persons, company or corporation, for hire, pay or otherwise to use natural gas for illuminating purposes in what are known as flambeau lights in cities, towns, highways or elsewhere: Provided, That nothing herein contained shall be construed as to prohibit any such person or persons, company or corporation from the necessary use of such gas in what are known as "jumbo" burners enclosed in glass globes, or other burners or lamps of similar character so enclosed as will consume no more gas than said "jumbo" burners.

Sec. 2. That all gas lights in said "jumbo" or other burners or lamps used in all streets and public highways shall be turned off not later than 8 o'clock in the mornings of each day, such lights or burners are used, and the same shall not be permitted to burn between the hours of 8 o'clock A. M. and 5 o'clock P. M.

Sec. 3. Any person or persons, company or corporation violating any of the provisions of sections 1 and 2 of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than twenty-five dollars, and for a second offense may be fined not more than two hundred dollars.

Sec. 4. It shall be unlawful for any person or persons to set on fire any gas escaping from wells, broken or leaking mains, pipes, valves, or other appliances, used by any person or persons, company or corporation in conveying gas to consumers or otherwise, or to interfere in any manner with the wells, pipes, mains, gate-boxes, valves, stop-cocks, or other appliances, machinery or property of any person or persons company or corporation engaged in furnishing gas to consumers, unless employed or acting under the authority and direction of such person or persons, company or corporation engaged in furnishing gas to consumers. Any person violating any provision of this section shall, upon conviction, be fined in any sum not less than five dollars nor more than one hundred dollars for each offense.

Sec. 5. Every person or persons, company or corporation now engaged or hereafter engaged in the business of furnishing natural gas for heating, illuminating or other purposes, to be used and paid for by patrons by meter measure, shall furnish to each and every person a meter properly tested and in good order and shall arrange such meters so that the patron can, at any time, see the meter dial and ascertain how much gas he is consuming, and how much he is liable to pay for.

Sec. 6. If any person or persons, company or corporation, engaged in furnishing gas to consumers, to be paid for by meter measure, charge to or receive from any patron or consumer, pay for more gas than the meter registered, then the said person or persons, company or corporation shall forfeit to the said consumer, not less than ten nor more than one hundred dollars to be received by such consumer in an action before any court having jurisdiction thereof.

Sec. 7. Whoever knowingly constructs or uses any false meter for measuring and registering the quantity of gas sold to any person, shall be fined not less than ten nor more than one hundred dollars.

Sec. 8. Any person, company or corporation violating any of the provisions of section 5 and 6 of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars, nor more than one hundred dollars for each offense.

Sec. 9. It shall be unlawful for any person or persons, company or corporation, having possession or control of any natural gas or oil well, whether as a contractor, owner, lessee, agent or manager thereof, to allow or permit the flow of gas or oil from any such wells to escape therefrom, without being confined in such well, or in proper pipe lines or tanks, or other safe receptacles for a longer period than (five) (5) days next after gas or oil shall have been discovered in such well. And thereafter all such gas or oil shall be safey and securely confined in such well, pipes, or other safe and proper receptacles.

Sec. 10. Whenever any well shall have been drilled for the purpose of obtaining natural gas or oil or exploring for the same, and shall be abandoned or cease to be operated for utilizing the flow of gas or oil therefrom it shall be the duty of any person or persons, company or corporation having the custody or control of such well at the time of such abandonment or cessation of use, and also the owner or owners of the land whereon such well is situate, to properly and securely enclose and plug the same as follows: If such well has not been "shot" there shall be placed in the bottom of the hole thereof a plug of well seasoned wood, the diameter of which shall be within one-half inch as great as the hole of such well, to extend at least three feet above the salt water level where such water has been found; where no salt water has been found such plug shall extend at least three feet from the bottom of the well. In both cases such wooden plug shall be thoroughly forced down and made tight by the use of drilling tools. After such plugging and tightening, the hole of such well shall be filled on top of such plug with finely

broken stone or sand, which shall be well tamped to a point at least four feet above any gas or oil bearing rock; on top of this stone or sand there shall be placed another wooden plug at least five feet long with diameters as aforesaid, which shall be thoroughly tamped and tightened. In case such well shall have been "shot" the bottom of the hole thereof shall be filled with a proper and sufficient mixture of sand, stone and dry cement, so as to form a concrete up to a joint at least eight feet above the top of the gas or oil bearing rock or rocks and on top of this filling shall be placed a wooden plug at least six feet long, with diameter as aforesaid, which shall be properly tamped as aforesaid.

Sec. 11. Any person violating any provision of section 9 or section 10 of this Act shall be guilty of misdemeanor, and upon conviction thereof, shall be fined not less than twenty dollars nor more than two hundred dollars, and each day during which such violation shall continue shall constitute a separate offense.

Sec. 12. Whenever any person or persons, company or corporation in possession or control of any well in which natural gas or oil has been found shall fail to comply with the provisions of this Act, any person or persons, company or corpoation lawfully in possession of lands situated adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situate and take possession of such well from which gas or oil is allowed to escape in violation of the provisions of section 10 of this Act, and pack and tube such well and shut in and secure the flow of gas or oil, and maintain a civil action in any court of competent jurisdiction in the State, against the owner, lessee, agent, or manager of said well, and each of them, jointly and severally, to recover the cost and expense of such tubing and packing, together with attorney's fees and costs of suit. This shall be in addition to the penalties provided by this Act.

Sec. 13. Whenever any person or persons, company or corporation shall abandon or cease to operate any natural gas or oil well, and shall fail to comply with the provisions of section 10 of this Act, any person or persons, company or corporation lawfully in possession of lands adjacent to or in the vicinity or neighborhood of such well may enter upon the lands upon which such well is situated and take possession of such well, and plug and fill the same in the manner provided by this Act, and may maintain a civil action in any court of competent jurisdiction of this State against the person, persons, company or corporation so failing, jointly or severally, to recover the costs and expense of such plugging and filling, together with attorney's fees and costs of suit. This shall be in addition to the penalties hereinbefore provided for by this Act.

Sec. 14. The office of Natural Gas Supervisor is hereby established, and within thirty days after the taking effect of this Act, and every four years thereafter, the Governor shall appoint a skilled and competent person, who has practical knowledge of geology and natural gas, and who is not directly or indirectly interested in producing, piping or selling natural gas, as the natural gas supervisor of the State of West Virginia. Such supervisor shall serve for a term of four years, and until his successor is appointed and qualified, and in case a vacancy occurs in the office of natural gas supervisor from any cause, the Governor shall fill the vacancy by appointment as herein provided. Provided, however, the Governor shall have power to remove such supervisor at any time and fill the acancy caused by such removal. Such supervisor shall receive an annual salary of two thousand dollars, and not more than the further sum of one thousand dollars for traveling and other expenses, and an annual appropriation of three thousand dollars is hereby made out of any moneys in the State Treasury not otherwise appropriated, for the salary and expenses of such supervisor. The Governor shall issue

to such Natural Gas Supervisor, a certificate of appointment, and said Supervisor shall within ten days thereafter, make and execute a bond in the sum of one thousand dollars with security to be approved by the Governor, payable to the State of West Virginia, with his oath of office indorsed thereon, which bond shall be for the faithful performance of duty, and shall be approved by and filed with the Secretary of State. Such Supervisor, when he has qualified according to law, shall devote all his time to the business of his office, and he shall be under the direction and supervision of the Governor. He shall make a personal inspection of all the gas wells of the State, so far as practicable, and shall see that every precaution is taken to insure the health and safety of workmen engaged in operating gas and oil wells and laying mains and pipes, and of those who, in any manner, use natural gas for mechanical manufacturing, domestic and other purposes. He shall see that all the provisions of law pertaining to the drilling of wells, plugging of abandoned wells, and the piping and consumption of natural gas are faithfully carried out and that the penalties of law are strictly enforced against any person or persons who violate the same, and promptly report all violations of law to the prosecuting attorney of the county wherein such violations of law are committed. He shall collect and tabulate in his annual report to the Governor the number of gas wells, with location; a record of the geological strata passed through in drilling wells; depth at which salt water is reached in the various wells and the height to which it rises; the volume of gas and quantity of oil produced by each well, so far as it can be ascertained, and also the initial or rock pressure of the same; the increase or decrease in the pressure of the various wells, so far as it can be ascertained, and also the increase or decrease in volume of gas produced; the number of miles of mains laid for the transportation of gas and capacity and cost of the same; the amount of capital invested in the gas industry and the number of persons employed in the same; the cost of gas as fuel at the various points at which it is used; the amount of capital invested in manufacturies located on account of natural gas and the number of the same; together with the amount and kind of products and number of employes, and such other facts and information as the Governor may require.

Sec. 15. It shall be the duty of the Natural Gas Supervisor to inspect all natural gas pipe lines in this State, at least once in each year, and as often as it may be necessary, or whenever he may be directed by the Governor, and he shall have the power to condemn any pipes or portions of lines that he may deem unsafe or dangerous to life or property. And any person or persons using or causing to be used any pipe line or portion thereof after the same has been condemned, shall be guilty of a misdemeanor, and upon conviction shall be fined in any court having jurisdiction for a misdemeanor in any sum not exceeding one hundred dollars, and any person or persons, company or corporation in this state owning natural gas wells or natural gas pipe lines, or controlling the same, and who refuse to allow the same to be inspected by the Natural Gas Supervisor, upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars for each offense; Provided, further that whenever any responsible person shall file with such Gas Supervisor an affidavit charging the owner or owners of such gas plant or wells, or any person using the same, or their employees with the violation of any of the laws regulating the use of natural gas and particularly specifying the violations complained of, it shall be the duty of such Supervisor to examine and inquire into the alleged violations of the law set forth in the affidavit, and if he finds the facts as charged, it shall be his duty to see that the law is complied with.

Sec. 16. It shall be and is hereby made the duty of the Natural Gas

Supervisor, upon the discovery of any leak or any other defect in any pipe line for transportation of natural gas, or in any machinery, apparatus, appliance or device used in the regulation or distribution thereof, which shall render the same dangerous to life or property, to forthwith notify, in writing, the owner or superintendent of said pipe line, machinery, apparatus, appliance or device, to have the same repaired within two days from the time of receipt of said notice; but if the owner or superintendent threof be a non-resident of this state or absent from the county in which said leak is located, then said notice shall be served upon any person in charge of same. In case such leak or other defect has not been repaired within the time required, it shall be the duty of said Natural Gas Supervisor to make such repairs as may in his judgment be necessary to stop said leak; and such Natural Gas Supervisor shall have a lien upon said pipe line and all wells with which the same may be connected, for the expense of making such repairs, cost of suit, and a reasonable attorney fee, and an action may be maintained by him in any court of competent jurisdiction for the same.

Sec. 17. All acts or parts of acts inconsistent with this Act are hereby repealed.

This Act is drawn largely from Senate Bill No. 40, introduced at the last session of the West Virginia Legislature, and contains all of the provisions in that Bill, except the prohibition or restriction against transportation of natural gas.

The provisions of this Bill are almost identical with the Indiana Acts, which have been held valid by the Courts.

Indiana Oil Co. v. Ohio Co., 177 U. S. 190;
Townsend v. State, 147 Ind. 642; 37 L. R. A. 294.
Manufacturers Co. v. Indiana, 155 Ind. 461; 50 L. R. A. 763;
Given v. State (Ind.), 66 N. E. Reps. 750, 782

The provisions chiefly cover the waste of gas. A provision prohibiting the use of any artificial process, etc., to increase the natural flow of gas, has been held good in Indiana.

Mfg. Co. v. Indiana Co., 155 Ind. 461; 50 L. R. A. 768.
See also Thornton on Gas, Sec. ———

The draft of this bill will be found almost identical with the Indiana Acts, by comparison as follows:

Secs. 1, 2, of this Act with sections 7508 and 7509 Indiana Code, Acts 1893, page 300. Sections 4, 5, 6, 7, 8, 9, 10 and 11 with sections 2316, 2318 and 2318a to 2318c, of the Indiana Code. Sections 12, 13 to 19 of this Act with Sections 7504 to 7514 of the Indiana Code.

Bill 3 (Relating to Transportation of Natural Gas.)

A Bill to be entitled

An Act for the Promotion of Public Safety from Dangers Arising from the Transportation of Natural Gas, prescribing the quality of casing and pipes to be used in the Transportation thereof, and the Pressure of Gas to the Square Inch upon Pipes and Casing; Prohibiting the Use of Gas Pumps or other Artificial Process or Appliance for the Purpose of Producing Natural Gas, or Increasing the Pressure upon the Casing and Pipes used for the Transportation thereof; Prohibiting a Pressure of more than Three Hundred Pounds to the Square Inch by any Person or Persons, Company or Corporation, engaged in Drilling for, Piping, Transporting, Using or Selling Natural Gas where the same is conducted through iron casing or pipes; and Providing Penalties for Violation of any of the Provisions of this Act.

Sec. 1. Any person or persons, company or corporation engaged in drilling for, piping, transporting, using or selling natural gas, may transport or conduct the same through sound wrought or cast iron casing and

pipes, tested to at least four hundred pounds pressure to the square inch; Provided such gas shall not be transported through pipes at a pressure exceeding three hundred pounds per square inch, or otherwise than by the natural pressure of the gas flowing from the wells.

Indiana Code, Sec. 7507.

Sec. 2. It shall be unlawful for any person, persons, firm, company or corporation to use any device for pumping or any other artificial process or appliance for the purpose, or that shall have the effect of increasing the natural flow of natural gas from any well, or of increasing or maintaining the flow of natural gas through the pipes used for conveying and transporting the same.

Indiana Code, Sec. 7508.

Sec. 3. Any person or persons, firm, company or corporation, violating any of the provisions of this Act shall be fined in any sum not less than one thousand dollars nor more than ten thousand dollars, and may at the suit of the Natural Gas Supervisor in the name of the State, or of any citizen in his own name be enjoined from conveying and transporting natural gas through pipes otherwise than in this Act provided: Provided that nothing in this Act shall operate to prevent the use of nitro-glycerine or other explosives for shooting any well or wells from which the gas is procured.

Indiana Code, Secs. 7507, 7509, Acts 1893, page 300.

This Act has been held good.

Manufacturers Co. V. Indiana, 12 L. R. A. 230.

Bill 4 (Relating to Forest Reserve.)

A Bill to be entitled

An Act to Empower the United States of America to Acquire Lands in the State of West Virginia by Condemnation or Otherwise, for a National Forest Reserve, and granting to the United States all Rights Necessary for the Proper Control and Regulation of such Reserve.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the consent of the Legislature of West Virginia be and is hereby given to the acquisition by the United States, by purchase or by condemnation with adequate compensation, of such lands in West Virginia as in the opinion of the Federal Government may be needed for the establishment of such a National forest reserve in that region: Provided, That the State of West Virginia shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases, and such criminal process as may issue under the authority of the State of West Virginia against any person charged with the commission of any crime without or within said jurisdiction may be executed thereon in like manner as if this act had not been passed.

Sec. 2. That power is hereby conferred upon Congress to pass such laws as it may deem necessary to the acquisition, as hereinbefore provided, for incorporation in said National Forrest Reserve, of such forest-covered lands in West Virginia as in the opinion of the federal government may be needed for this purpose.

Sec. 3. Power is hereby conferred upon Congress to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature, and provide such punishment therefor, as in its judgment may be necessary for the management, control and protection of such lands as may be from time to time acquired by the United States under the provisions of this act.

The authorities from which this Act is compiled are:—

North Carolina Acts 1901, Chapter 17;

South Carolina Acts 1901, page 609;

Tennessee Acts 1901, Chapter 47.

Bill 5 (Relating to Forest.)

A Bill to be entitled

An Act Providing for the Investigation and Study of State Forest Conditions by the West Virginia Agricultural Experiment Station, in co-operation with the United States Department of Agriculture.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WEST VIRGINIA:

Sec. 1. That it shall be the duty of the Director of the West Virginia Agricultural Experiment Station, and his assistants in conjunction with the U. S. Department of Agriculture as herein provided to conduct investigations in the several sections of this State in regard to the forest resources of the State, and their proper conservation, and especially with a view to formulating a proper forest policy for this State; to discover the varieties of valuable trees best adapted to the various kinds of land in the State; to determine the cost and best methods of propagating, plating, cultivating, and managing forests or wood lots; the location and character of lands suitable for forestry purposes in this State; to determine by investigation the average growth of the various kinds of trees, and the relative value of the various kinds of timber for commercial purposes; and to issue bulletins or publications from time to time containing useful information and recommendations upon subjects herein specified, and to make full and complete report before Dec. 1, 1908, as hereinafter provided to the Governor of work done, experiments made and information obtained.

The Governor of the State of West Virginia is hereby empowered to enter into a contract with the Secretary of the United States Department of Agriculture, for a study, investigation and report in conjunction with the West Virginia Agricultural Experiment Station, upon the forest resources, conditions, and needs of the State of West Virginia, and the subjects hereinbefore mentioned, as the basis for instituting a definite State Forest policy, and such joint report shall be made to the Governor of this State prior to the 1st day of December, 1908.

Sec. 2. There is hereby appropriated to the said Director of the West Virginia Agricultural Experiment Station, for the purpose of carrying out the provisions of this Act, the sum of three thousand dollars ($3,000) for the year 1907, and three thousand dollars ($3,000) for the year 1908, or so much thereof as may be necessary, provided that the expenditures by the State of West Virginia under this Act shall not exceed the amount expended by the United States Department of Agriculture in defraying the expense of said study and report; and provided that the work undertaken as outlined in this act shall be carried out on the lines to be agreed upon by the Director of the West Virginia Agricultural Experiment Station, and the Secretary of the United States Department of Agriculture. The Auditor of the State is hereby authorized to draw his warrants upon the State Treasurer for the sum herein appropriated, upon the presentation of proper vouchers, and the State Treasurer shall pay the same out of any funds in the public Treasury.

Sec. 3. All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed.

Authorities:—

The Sources from which this act is compiled, are the

Act of Florida, 1905, which was strongly endorsed by the Head Forester of the Bureau of Forestry at Washington, Mr. Gilford Pinchot.

See also Chapter 62 a West Virginia Code 1899, Secs. 1 to 10; Secs. 2804 to 2815 of the Revised Code, providing for investigation into plant diseases by the Director of the Experiment Station.

APPENDIX IX.

Report of Special Committee on The Torrens Land System.

To the President and Members of the West Virginia Bar Association:

The Committee appointed in pursuance of a resolution of the Association reports as follows:

Object of Resolution.

The resolution raising the committee contemplates a report, 1. On the practical workings of the so-called Torrens Land System in localities where it is in operation; 2. The method of putting the system into practice; 3. How it is received and regarded by the people in jurisdictions where adopted; 4. The probable cost of instituting the system; 5. Also a bill or bills for presentation to the Legislature.

Object of This Report.

The purpose of this report is to present bills providing for the adoption and putting into operation the Torrens Registration System, which the committee has done, and presents as part of this report three different bills relating to the subject; one a bill providing for the adoption of the system giving various details; one providing for the submission to a vote of the people the question of the adoption or rejection of the System; and thirdly a bill penalizing certain violations of the Law relating to the System.

The further purpose of the report is to detail, discuss and explain succinctly, plainly and concisely the so-called, "Torrens Land Registration System," and to supply such information and data as may be necessary to determine its merits and the desirability and practicability of adopting the same.

The committee, in a measure, has endeavored to furnish information for action rather than argument for conviction; its purpose being rather historical than argumentative.

It is impossible within the compass of such report to go into minutiave and details of the system and to discuss its merits and demerits. This must be left to individual investigation of the members. The bills presented are commended to them for critical examination.

System in Use.

There are three systems of transferring real estate in use in the civilized world, transfer without recordation or registration; the ministerial system of recording conveyances; and the judicial system of

registering titles, as distinguished from the mere recording of deeds and title papers.

The first system is used in most of the countries of England where land is conveyed by the delivery of all the title deeds, including the one to the last purchaser.

This seems a crude system, but under the laws, customs and conditions in that country has served its purpose well.

The system of transcribing title papers at length on the public records of the County where the land lies is the one in general use in this country. The recording system is capable of many modifications, and in some form exists in most civilized countries. It may be known as the ministerial system. It does not deal with titles; it simply deals with title papers.

Its affect depends on local laws; and comprises a vast amount of legal learning not necessary to be discussed here.

The third system is the Judicial System, and its purpose is judicially to determine titles and then register them. This is the so-called "Torrens System."

In the year 1857 Sir Robert Torrens was Commissioner of Customs in South Australia, and in the discharge of his duties as such he was struck by the facility with which dealings in regard to transfers of undivided shares of ships were carried out under the system of registration provided in the "Merchant Shipping Acts." Subsequently becoming a registrar or recorder of deeds, he became acquainted with the confusion and uncertainty inseperable from most questions of title to land.

He devised a scheme of registration of title, as opposed to the old scheme of registration of deeds modelled after said "Merchant Shipping Acts." After some opposition the scheme was carried into Act of Parliament in 1857-8.

What the System Is.

Under the so-called Torrens System two purposes must be kept in view: First, the Judicial ascertainment and determination of a given title; and second, its subsequent registration as a judicially fixed and determined title.

In some countries the Registrar of Titles is a Judicial officer, who first judicially passes on the titles, and then registers them; while in others, the judicial determination and initial registration are made by Court. The latter is a system adopted by some of the States in this country.

In some countries the officer who makes the transfer is a judicial officer, in others not. In some jurisdictions there is an indemnity fund, in others not. Under some laws a forged deed conveys title and others not.

The declared object and purpose of this system is under governmental authority to establish and certify to the ownership of an absolute and indefeasible title to realty, and to simplify its transfer.

This expresses the object and purpose of the system in a nut shell.

How far this can be accomplished in its fullest extent under our written constitutions remains to be seen.

Procedure and Illustration.

The first step in putting a tract of land "under" the Torrens System is the judicial ascertainment of the title thereto.

This is done but once and is subsidiary to the main purpose—the

registration of the title, as contra-distinguished from the registration of the title deed. This judicial performance must be done by some Court clothed with judicial powers. No mere ministerial officer is competent to perform the necessary duties required.

John Doe owns a tract of land. For commercial or other purposes he conceives it to be desirable to put the same "under" the Torrens System.

Most of the states of the Union where the system is in force have established a Court in connection with it for the judicial determination of the title. In Illinois the jurisdiction is conferred upon the Court of Equity.

John Doe conceives he owns a tract of land in fee simple, absolute. He therefore files a bill in equity or petition in the nature of a bill in equity. Along the chain of title from the Government down to himself are various conveyances, wills, mortgages, trusts, liens, encumbrances and charges, etc., some of which do not appear to be released. There is some question of the interpretation of some will in the chain of his title. Also some one claims a parcel off one portion of his tract.

John Doe therefore is required to make parties to his bill or petition all unreleased lienors, all claimants and devisees who claim under any devise in the chain and all other claimants; as well as any and all persons whose titles may in any manner conflict with his, and all who in any way may claim any interest in the land though their claims may be groundless.

These defendants are summoned and may answer setting up their claims, or may confess the plaintiff's rights.

After the case is matured, it is referred and committed to a master in chancery or commissioner who is required by specific and minute directions to ascertain the exact condition of John Doe's title, and the condition and validity of every lien and claim, and to report specifically on every issue raised in the pleadings, to this end and he is required to take all the evidence offered bearing on the claims of the respective parties.

The master at the conclusion of his labors in this regard makes a formal, ample and written report upon the condition of John Doe's title.

If he finds that he has title in fee simple, he so reports with a minute description of the land. If Doe's title is subject to liens, limitations, conditions, or devises he so reports.

To this report either party may except. The Court disposes of the exceptions and finds that John Doe is the owner in fee simple of the land claimed by him and enters a decree accordingly; or otherwise as the case may be. Either party may appeal. But in any event if Doe prevails after all adjudications and appeals, he comes out of the Court of Chancery with a Decree finding and pronouncing that he has title in fee simple to the land described in the Decree with convenient certainty.

The proceeding, to all intents and purposes is a suit to quiet title; a Bill Quia Timet.

John Doe has now passed the initial stage and is ready to "put his title" (not his title deeds) under the Torrens System.

He takes an authenticated copy of the Decree thus obtained to the Clerk or Registrar, as the case may be who keeps a "Register of Titles," in which titles are registered.

The recorder, clerk or registrar then enters the title thus judicially fixed, ascertained and determined in the Register and registers it; and issues to John Doe an exact copy in substance as follows:

"First Certificate of Title, pursuant to Decree of the Circuit Court of Wetzel County:

State of West Virginia, Wetzel County.

John Doe of said County is the owner in fee simple of the following land (here describe it). (And if subject to any conditions, liens, etc.,)

say: subject to the estates, easements and encumbrances hereunder noted.
Witness my hand and official seal.

I. D. MORGAN,
Registrar."

If there be no easements, charges, trusts or conditions, the certificate omits them; if there are any they are noted on the Register, and also at the foot of the certificate. The certificate conforms in this as in all other respects to the Decree. Of course the Register is indexed.

The Decree is not recorded but filed in the office, not to be withdrawn.

This certificate is John Doe's evidence of title. If he afterwards sells and conveys the land or any part, this certificate is surrendered and destroyed, and a new one issued to his grantee. If he conveys only a portion of the land the certificate is destroyed, and a new registry is made showing what portion Doe retains, and what portion he has conveyed; and certificates to him and his grantee are accordinly issued.

As remarked, when the registered owner desires to convey his land, he executes a formal deed, files the same and surrenders his certificate. When the registrar has determined the right of the transferrer to make the conveyance, and the transferee has the right to the transfer, he makes out and registers a new certificate and duplicate, certifying the title to be in the transferree according to the legal effect of the deed.

Behind these acts and decisions of the registrar, which have been loosely denominated as ministerial there lies a large sphere of action involving the finding of facts, construction of words, phrases, clauses, sentences, and instruments and the adjudication of rights. He must find the deed genuine; that it has been duly delivered, executed in due form to convey the estate, or if not, how much and what; he must construe the estate conveyed and make the certificate conform to any reservation, exception, condition of limitation. It would seem that by far the larger part of the duties of the registrar, after the initial registration, are judicial and not ministerial.

If the value of the system lies in the original judicial ascertainment of the title, (and it would seem that it does,) then to be consistent with the original high purpose, each subsequent conveyance and registration should necessarily involve an adjudication of the new conveyance, for its purpose, scope and effect must be determined by the registrar before the issuance of a new certificate to the new transferree.

Unless this leading feature is kept in view the system must by usage degenerate into the ministerial system.

And yet strange enough no Court under any act yet fixed the constitutional boundaries of the sphere of duties, or the limit of the powers of the registrar. Many of his acts are certainly judicial. If the valuo of the system consists in the legal, adjudication of the title in the first instance, to maintain its value the title should be kept adjudicated at each subsequent transfer otherwise the system degenerates.

And yet no mere ministerial officer, as a registrar, can exercise the power of adjudication.

In view, therefore, of the fact that no Court has yet fixed the constitutional boundaries, of the sphere of duties and the limit of the powers of the registrar and inasmuch as in keeping with the expressed high purpose of the system, not only to adjudge and ascertain titles originally, but also to keep them adjudicated at each subsequent conveyance and thus keep the title on the professed high plain of perfection with which it started out, the committee has provided in the bill presented a provision for judicial review of each subsequent transfer after initial registration.

This provision will be found in the accompanying draft, beginning at Section 62, entitled "Judicial Review" and extending to Section 65 inclusive.

If it is not desired to incorporate this feature, these sections can very well be omitted without affecting the symmetry of the bill, for no system yet devised has had this feature engrafted on it, but as before said if each transfer is not judicially determined, but its effect and purpose left to a mere ministerial or clerical officer, then the system must degenerate at once into the ministerial system, and no more nor less worthy of confidence than the legal learning of the registrar.

It is respectfully submitted that there can be no efficient system under written constitutions without a judicial or Court review. Hence we provide for the same in the sections above cited.

The System Does Not Dispense With Conveyancing.

The so-called Torrens System does not dispense with conveyancing; it simply dispenses with recordation of title paper.

John Doe brings his Decree into the Registrar's office; it is filed, never to be withdrawn; and title therein adjudicated is registered in accordance therewith in the Register; (a book for the purpose) and he receives a certificate, the exact counterpart of the register.

When John Doe afterwards conveys his land, he does so by a regular deed of conveyance, according to the manner of conveying in this State, and delivers it. (There is no change in the mode of conveyancing). It is filed in the office and a new certificate is issued to his grantee with the caption:—

"Transfer from No. 1" Also the words, "First registered,.....day of ....., 1906."

Thus it will be seen that the title is registered, and a governmental certificate is issued which states that the person named in it (the grantee) has the specific interest in the land described in it. And afterwards the title to the land cannot pass except by entering on the register the name of the grantee and the issuance of a new certificate to him, upon the surrender of the old one. All mortgages, liens, or other matters affecting the title to the piece of land registered must be noted on the page of the official register which is set apart to that land.

The theory is that the exact condition of the title to a piece of registered land at any given time may be seen by turning to the page of the register which is set apart for that land.

The foregoing outline will give a general view, taken in connection with the bills presented, of the purposes of the system and the method of putting it in practice.

The details of the practice where in operation are minute and as varied as the transactions in connection with the handling of real estate. In a plain, straightforward proceeding, as the instance used above for illustration, no great difficulty is encountered. It is only when the estate created under deeds, wills and trusts are involved that difficulty is experienced; and the owner cannot be thoroughly satisfied that his certificate is what it professes to be until an appellate Court has passed on the title, or the time for appealing has elapsed.

There may be cases where the owner knows of no claimant against him; the question then is how to proceed. The practice then is to proceed against all the world as defendants under the designation of "all whom it may concern," and give notice by publication. It is then doubtful whether this proceeding by constructive notice is due process of law and would conclude claimants.

Some courts hold not, but the Massachusetts Supreme Court holds that the proceeding is in rem, and the substituted process binds the whole world. It is very difficult to agree that a proceeding to bring land "under" the Torrens System can be properly called a proceeding in rem; or even in the nature of such a proceeding.

The System in Other States.

The committee in various ways has learned that the people in the rural districts in States where the system exists are very slow to take advantage of its provisions and are conservative about adopting it.

In the large cities, however, and in the commercial centers, the people are more inclined to regard the system with favor, but in no locality have the people resorted to the provisions of the law with the alacrity prophesied by its advocates; and it will take a long time for the system to become of general practice unless made compulsory.

The Illinois lawyers say that while there is no hostility to the system in that State, yet the people are loath to abandon a system they are accustomed to and adopt one, untried; and express the opinion that its popular adoption will not be general unless made compulsory. The same legal gentlemen deprecate a dual system in any county and therefore favor the compulsory feature.

Guaranty Feature.

Nearly every state adopting the Torrens System has also provided for the creation and maintenance of a fund for indemnity of those who may sustain loss of title under the system.

This fund provides for indemnity to any one who may suffer loss on any account growing out of the registration of title, official error, or failures of title. The fund is composed of legal fees; premiums by way of per centage on the value of the lands registered; and in Massachusetts, by legislative appropriations to supplement deficiency from other sources. Very little resort has been had to such funds.

Costs and Expenses.

The Committee has examined the fee bills of a few of the States in connection with the system, and is of opinion that the approximate initial cost of putting any given tract of land under the system, including Counsel fees, but excluding the per centage to the guarantee fund, cannot fall far short of one hundred dollars, for Counsel will not work gratis.

The contribution to the guaranty where the property is small is inconsiderable, but in the more wealthy centers is onerous.

The costs of registering title to a tract of land would be about the same as the costs of an ordinary suit in equity to quiet title, not including counsel fees and guaranty assessment. The guaranty fund makes the State an insurer of titles.

Miscellaneous.

Considerable litigation has arisen in the States of this country where the system has been adopted; and questions have arisen which could arise only in countries having written constitutions. A proposition to adopt the system in any state takes within its scope the written provisions of both the State and National Constitutions.

Up to the first of April, 1903, twenty-three cases have reached appellate courts of the various states and the nation, many of them raising constitutional questions of great nicety, in which contests the system has in some instances been declared unconstitutional in whole or in part.

The system is one of formulary laws and rules, purely conventional in their conception and depending for practical efficiency upon literal enforcement. Any deviation means confusion and degeneracy. English and Australian forms are useless here.

Without further discussion the committee submits the three bills prepared as part of this Report. While far from perfect they feel that these drafts present sufficient basis to begin work upon; and the Association may be able to use them in formulating measures for the action of the Legislature, if they do not see fit to us them as prepared.

W. P. WILLEY,
EDGAR B. STEWART,
C. D. MERRICK,
THOS. P. JACOBS,
Committee.

(The bills reported by the Committee were printed in THE BAR for November-December, 1906 and are not reprinted here.)

APPENDIX X.

Report of Committee on "Uniformity of Legislation."

To the West Virginia Bar Association:—

Since this Committee's report last year progress has been made in uniformity of legislation, especially the Negotiable Instrument's law. On other subjects mentioned in that report, the most active has been on the subject of divorce, which has been taken up vigorously by the clergy, and the Governors of the several states, culminating in a largely attended national convention in which there was a full, interesting and wise discussion, the points of which are familiar doubtless to all.

The Negotiable Instruments law as prepared by the Committee on Uniform State Laws of the American Bar Association has been enacted into law by twenty-eight states, one territory and the District of Columbia. It is the law in all the states bordering on West Virginia, which makes a necessity for its passage in West Virginia, because of the large interchanges of business naturally, occurring with such bordering states.

This law has been before the Legislation of West Virginia in each of the three past biennial sessions, but never at any of them receiving the consideration it merited. It is proposed to submit it for passage at the ensuing session of the Legislature next January, and with the co-operation of West Virginia Bankers Association through its Legislative Committee, and the Committee on Legislation of this Bar Association, to which latter committee it has been referred for that purpose. It is to be hoped this law may be passed. At the last session it passed the Senate, but failed to reach a final reading in the House of Delegates.

Most of the states have passed the Act appointing Commissioners for the promotion of uniformity of Legislation in the United States. A copy of the Act as passed substantially in other states accompanies this report, and it is recommended that the Committee on Legislation also have this proposed Act introduced in and passed by the next Legislature in this State. The Commissioners appointed in other states have had several conferences, are fully organized and have and are accomplishing commendable results.

Respectfully submitted,

W. W. VAN WINKLE,

Committee.

CONSTITUTION AND BY-LAWS.

Constitution.

1. The Association shall be known as "The West Virginia Bar Association."

Object.

2. The Association is formed to advance the science of jurisprudence; to promote reform in the law; to facilitate the administration of justice; to uphold integrity, honor and courtesy in the legal profession; to encourage liberal education, and to cultivate cordial intercourse among the members of the bar.

Membership.

3. The members of the legal profession attending this convention this 8th day of July, 1886, are hereby declared to be members of this Association, provided they shall, during this present session, pay the admission fee hereinafter mentioned.

Any member of the legal profession in West Virginia, of good standing, residing therein, may become a member of the Association upon nomination and vote, as hereinafter provided.

Election of Members.

4. All nominations for membership shall be made by the Committee on Admissions, and must be transmitted in writing to the President and by him reported to the Association, and the Association shall thereupon vote by ballot. Several nominees may be voted for upon the same ballot, and in such case, placing the word "no" against any name or names upon the ticket, shall be deemed a negative vote against such name or names, and against those only. One negative vote in every five shall suffice to defeat an election. No member of the bar residing in a county where there is a local Bar Association shall become a member of this Association unless he shall be a member of such local Association.

Officers.

5. The officers of the Association shall be a President, who shall be ineligible to re-election on the expiration of his term; one Vice-President from each Congressional district represented by membership in the Association; a Secretary and Treasurer. All of these shall be elected at the annual meeting and hold their offices until the next annual meeting of the Association and until their successors are elected. A majority of votes shall be necessary to the election of officers, including the election of the Executive Council. Such election shall be by ballot.

Committees.

6. At the annual meetings the Association shall elect an Executive Council to be composed of five members and the President and Secretary. The President-elect shall, with the approval of the newly elected Executive Council, appoint the following standing committees, to-wit:

A Committee on Admissions.
A Committee on Judicial Administration and Legal Reform.
A Committee on Legal Education.
A Committee on Grievances.
A Committee on Legal Biography.
A Committee on Legislation.
A Committee on Banquet.

The Committees on Judicial Administration and Legal Reform, on Legal Education, on Legislation, and all other committees appointed to propose matters for Legislative action, or to which such matters may be referred for report, shall, at the expense of the Association, have printed and distributed to members copies of their reports at least ten days before such annual meeting. It shall be deemed a compliance with this requirement of such reports shall have been published in The Bar at least ten days before such annual meeting.

A majority of the members of every committee, including the Executive Council, who may be present at a meeting of the Association, or at a meeting of such committee held in accordance with By-law No. 8, shall constitute a quorum of such committee.

Final Action.

7. No action of this Association of a permanent nature or recommending changes in law or the administration of justice, shall be had until the subject matter thereof shall have been reported upon by the appropriate committee to which the same shall have been referred, unless this regulation shall be suspended by a two-thirds vote of the members voting thereon.

President.

8. The President, or in his absence the Vice-President, senior in years, shall preside at all meetings of the Association, and the President shall deliver an address at the opening of the annual meeting after his election, which address shall discuss matters of special interest to the people of this State, arising upon legislation enacted and decisions rendered.

The Executive Council.

9. This Council shall manage the affairs of the Association, subject to the provisions of the constitution and by-laws, and shall be vested with the title to all its property, as trustees thereof, and shall make by-laws for the Association, subject to amendment by the Association.

Committee on Admissions.

10. The proceedings of this committee shall be deemed confidential and shall be kept secret, except so far as written reports of the committee shall be necessarily and officially made to the Association.

Committee on Judicial Administration and Legal Reform.

11. It shall be the duty of the Committee on Judicial Administration and Legal Reform to take notice of all proposed changes in the law, and to recommend such as may be in their opinion entitled to the favorable influence of the Association; and, further, to observe the working of the judicial system of the State, to collect information with reference thereto, and to recommend such action as they may deem advisable.

Committee on Legal Education.

12. It shall be the duty of the Committee on Legal Education to examine and report upon any proposed changes in the system of legal education and of admission to the practice of the profession in the state of West Virginia.

Committee on Grievances.

13. The Committee on Grievances shall have jurisdiction of all matters relating to the practice of law, and the administration of the Courts, involving any unprofessional conduct on the part of any member of the Bar of this State, or any impropriety on the part of any member of the Judiciary thereof, which may tend to lower the standard of the legal profession, or impair public confidence in, and respect for, the Courts, or otherwise be prejudicial to the interests of the Bar of this State. It shall be the duty of said Committee to take cognizance of all matters of this character which may come to their attention, and it shall be the privilege and duty of all members of this Association to bring to the attention of said Committee all such matters which may come under their observation. All such complaints shall be made to the Committee in writing, with details and particulars. Whenever in the judgment of the Chairman of said Committee, the facts of any such case may warrant it, he shall promptly call a meeting of the Committee during the interim between the meetings of the Association, and shall enter upon a formal investigation of the matter or complaint by such method or procedure as the Committee may adopt. All cases of a minor character shall be pursued by such inquiry as the Chairman or members may adopt for obtaining the facts without a formal investigation. But all cases shall be reported to the Association, at the regular meeting next after the receipt of the complaint, with such recommendations as the Committee shall deem advisable, upon which this Association shall take such action as it may deem expedient. No action by the Committee shall be deemed binding on the Association till formally approved by a vote of the Association.

In all cases arising under this article the accused shall be given due notice and an opportunity to be heard before action is taken.

In all cases of unprofessional conduct on the part of attorneys who are members of the Bar of this State, but not members of this Association it shall be the duty of said Committee, after the case has been reported by the Committee to the Association, and after the Committee has been so instructed by the Association, to bring the matter to the attention of the proper Court or Courts in such manner as the Association may direct; provided that, whenever it is necessary to present any matter arising under this Article to any Court the Association may, if it is deemed advisable authorize the President to appoint a Special Committee to assist, and act under, the Committee on Grievances in so doing.

The proceedings of the Committee on Grievances shall be deemed confidential and shall be kept secret except so far as reports of the same shall be necessarily and officially made to the Association.

Committee on Legal Biography.

14. The Committee on Legal Biography shall provide for the preservation among the archives of this Association of suitable written or printed memorials of the lives and characters of the deceased members of the West Virginia Bar.

Committee on Legislation.

15. The Committee on Legislation shall have charge of all measures proposed by the Association upon which legislative action is desired or contemplated. It shall be its duty to draft all necessary bills incorporating the special recommendations of the Association, to have the same introduced in the Legislature, and to adopt such means and methods as will promote their enactment into law, and to suggest and submit to the Association such measures as they may think advisable.

Secretary.

16. The Secretary shall keep a record and conduct the correspondence of the Association and perform the usual duties of such office.

Treasurer.

17. The Treasure shall collect, and by order of the Executive Council disburse, all funds of the Association, and keep regular accounts, which at all times shall be open to the inspection of any members of the Executive Council.

Annual Meeting.

18. This Association shall meet annually at Parkersburg or such other place and at such time as shall be fixed at each session of the Association. Those present at such a meeting shall constitute a quorum.

Dues.

19. The fee for admission to membership shall be $5, which shall in all cases accompany the application for membership. The annual dues shall be $4, the payment of which shall entitle each member to receive one copy of the journal and all the regular publications free of charge. The Treasurer shall annually set apart and pay over to the Executive Council one-fourth of the sum collected as annual dues, which shall be used as a fund for paying the expenses of publishing the journal of the Association.

Amendments.

20. This constitution may be altered at any annual meeting, on the recommendation of the Executive Council, by a vote of the majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

Expulsion.

21. Any member may be expelled by a majority of this Association at any annual meeting.

Resignations.

22. Any member may resign at any time upon the payment of all dues for the current year in which the resignation is tendered; provided, there be no charges for misconduct against such member.

From the date of the receipt by the Secretary of a notice of resignation, with an endorsement thereon by the Treasurer that all dues have been paid, as above provided, the person giving such notice shall cease to be a member of the Association.

Delinquents.

22. Any member of this Association who has for two successive years failed to pay his annual dues having due notice thereof, shall be dropped from the roll of membership by the Treasurer, and if at the end of one year thereafter he shall still be in default for dues, his membership shall thereby be forfeited; but if he shall within such year pay all his dues, such payment shall restore him to membership. The Treasurer shall report his action under this article to each annual meeting of the Association.

Nominations.

23. As early as practicable on the first day of the annual meeting, the President shall appoint a special committee on nominations, consisting of five members, which committee shall promptly meet, receive all nominations which may be offered for any office, for membership in the Executive Council, or for election as delegate to the American Bar Association, and shall report to the Association, not later than the afternoon of the first day, all such nominations, with any others they may see fit to present.

BY-LAWS.

1. The Executive Council, at its first meeting after each annual meeting of the Association, shall select some person to make an address at the next annual meeting, on the life and service of any deceased members of the bench or bar of West Virginia of eminence, or other subjects; and also not exceeding five members of the Association to read papers.

2. The order of business at the annual meeting, unless otherwise provided by the Executive Council or the Association, shall be as follows:

a. Annual Address of the President;
b. Report of Committee on Admissions;
c. Election of members;
d. Appointment of Committee on Nominations;
e. Report of the Secretary;
f. Report of the Treasurer;
g. Report of the Executive Council;
h. Report of the Committee on Nominations;
i. Election of officers, members of Executive Council and delegates to the American Bar Association;
j. Selection of time and place of next annual meeting;
k. Report of Committee on Judicial Administration and Legal Reform;
l. Report of Committee on Grievances;

m. Report of Committee on Legal Education;
n. Report of Committee on Legal Biography;
o. Report of Committee on Legislation;
p. Report of Committee on Banquet;
q. Report of special committees, and at the same time a meeting of the newly elected Executive Council;
r. Miscellaneous business;
s. Appointment of standing committees.

The address to be delivered by a person invited by the Executive Council shall be at the evening session of the first day of the annual meeting, unless the Executive Council shall otherwise provide. After the reading of the President's address and of each paper, an opportunity for discussion shall be given.

The Executive Council shall publish in the journal at least two weeks in advance of each annual meeting a statement of the name of the person who is to deliver the annual address and the names of those who are to read papers and the subjects of each.

3. No person taking part in a discussion shall speak more than ten minutes at a time nor more than twice on one subject.

A stenographer shall be employed at each annual meeting.

4. At any of the meetings of the Association, members of the bar of any foreign country or of any state other than West Virginia, who are not members of the Association, may be admitted to the privilege of the floor during such meeting.

5. All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the report of committees and all proceedings of the annual meetings shall be printed; but no other address made or papers read or presented shall be printed, except by order of the Executive Council. Extra copies of reports, addresses, and papers read before the Association may be printed for the use of their authors, not exceeding one hundred to each of such authors. The Executive Council, as a committee on publication, shall meet within one month after each annual meeting, at such time and place as the chairman shall appoint.

6. Except as provided by Article 6 of the Constitution or by vote of the Association, the term of office of all officers and of the Executive Council shall begin at the adjournment of the annual meeting at which they were elected; but the term of office of the members of the several committees appointed by the President shall begin immediately upon their appointment.

7. Each committee shall elect its officers, whose term of office shall commence on their election and continue until the appointment of a new committee; and each standing committee shall continue until its successor shall be appointed.

8. All standing committees shall meet on the day preceding each annual meeting at the place where the same is to be held, at such hour as the respective chairmen shall designate.

9. Special meetings of any committee shall be held at such times and places as the chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

10. The Treasurer's report shall be examined and audited annually.

11. No resolution complimentary to an officer or member for any service performed, paper read or address delivered shall be considered by the Association.

CODE OF ETHICS

ADOPTED BY THE WEST VIRGINIA BAR ASSOCIATION, FEBRUARY 12, 1902.

The purity and efficiency of judicial administration, which under our system is largely governmental itself, depends as much upon the character, conduct and demeanor of attorneys in their great trust, as upon the fidelity and learning of courts, or the honesty and intelligence of juries.

"There is perhaps no profession after that of the sacred ministry, in which a high-toned morality is more imperatively necessary than that of the law. There is certainly, without any exception, no profession in which so many temptations beset the path to swerve from the lines of strict integrity, in which so many difficult questions of duty are constantly arising. There are pit-falls and man-traps at every step, and the mere youth at the very outset of his career needs often the prudence of self-denial as well as the moral courage which belong commonly to riper years. High moral principle is his only safe guide; the only torch to light his way amidst darkness and obstruction."—Sharswood.

No rule will determine an attorney's duty in the varying phases of every case. What is right and proper must, in the absence of statutory rules and an authoritative code, be ascertained in view of the peculiar facts, in the light of conscience, and the conduct of honorable and distinguished attorneys in similar cases, and by the analogy to the duties enjoined by statute and the rules of good neighborhood.

The following General Rules are adopted by the Bar Association of the State of West Virginia for the guidance of its members:

Duty of Attorneys To Court and Judicial Officers.

1. The respect enjoined by law for courts and judicial officers is exacted for the sake of the office and not for the individual who administers it. Bad opinion of the incumbent, however well founded, cannot excuse the withholding of the respect due to the office while administering its functions.

2. The properties of the judicial station, in a great measure, disable the judge from defending himself against strictures upon his official conduct. For this reason, and because such criticisms tend to impair public confidence in the administration of justice, attorneys should, as a rule, refrain from published criticism of judicial conduct, especially in reference to causes in which they have been counsel, otherwise than in courts of review, or when the conduct of the judge is necessarily involved in determining his removal from or continuance in office.

3. Marked attention and unusual hospitality to a judge, when the relations of the parties are such that they would not otherwise be extended, subject both judge and attorney to misconstruction, and should

be sedulously avoided. A self-respecting independence in the discharge of the attorney's duties, which at the same time does not withhold the courtesy and respect due to the judge's station, is the only just foundation for cordial, personal and official relations between Bench and Bar. All attempts by means beyond these to gain special personal consideration and favor of a judge are disreputable.

4. Courts and judicial officers, in the rightful exercise of their functions, should always receive the support and countenance of attorneys against unjust criticism and popular clamor; and it is an attorney's duty to give them his moral support in all proper ways, and particularly by setting a good example in his own person of obedience to law.

5. The utmost candor and fairness should characterize the dealings of attorneys with the courts and with each other. Knowingly citing as authority an overruled case, or reading a repealed statute as in existence; knowingly mis-stating the contents of a paper, the testimony of a witness, or the language or arguments of the opposite counsel; offering evidence which it is known the court must reject as illegal, to get it before the jury under the guise of arguing its admissibility, and all kindred practices, are deceits and evasions unworthy of attorneys.

Purposely concealing or withholding in the opening arguments positions intended finally to be relied on, in order that the opposite counsel may not discuss them, is unprofessional.

In the argument of demurrers, admission of evidence, and other questions of law, counsel should carefully refrain from "side bar" remarks and sparring discourse to influence the jury or bystanders. Personal colloquies between counsel tend to delay and promote unseemly wrangling, and ought to be discouraged.

6. Attorneys owe it to the courts and the public whose business the courts transact, as well as to their own clients, to be punctual in attendance on their causes; and whenever an attorney is late he should apologize or explain his absence.

7. One side must always lose the cause, and it is not wise or respectful to the court for attorneys to display temper because of an adverse ruling.

Duties of Attorneys To Each Other, To Clients and To the Public.

8. An attorney should strive at all times to uphold the honor, maintain the dignity and promote the usefulness of the profession, for it is so interwoven with the administration of justice that whatever redounds to the good of one advances the other, and the attorney thus discharges, not merely an obligation to his brothers, but a high duty to the State and his fellow-man.

9. An attorney should not speak slightly or disparagingly of his profession, or pander in any way to the popular prejudices against it; and should scrupulously refrain at all times and in all relations of life, from availing himself of any prejudice or popular misconception against awyers, in order to carry a point against a brother attorney.

10. Nothing has been more potential in creating and pandering to popular prejudice against lawyers as a class, and withholding from the profession the full measure of public esteem and confidence which belong to the proper discharge of its duties, than the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is an attorney's duty to do everything to succeed in his client's cause.

An attorney "owes entire devotion to the interest of his client, warm zeal in the maintenance and defense of his cause, and the exertion of the utmost skill and ability," to the end that nothing may be taken or withheld from him save by the rules of law legally applied. No sacrifice or peril, even to loss of life itself, can absolve from the fearless discharge of

his duty. Nevertheless, it is steadfastly to be borne in mind that the great trust is to be performed within and not without the bounds of the law which creates it. The attorney's office does not destroy man's accountability to his Creator, or lessen the duty of obedience to law and the obligation to his neighbor; and it does not permit, much less demand, violation of law or any manner of fraud or chicanery for the client's sake.

11. Attorneys should fearlessly expose before the proper tribunals corrupt or dishonest conduct in the profession; and there should never be any hesitancy in accepting employment against an attorney who has wronged his client.

12. An attorney appearing or continuing as private counsel in the prosecution for a crime of which he believes the accused innocent, forswears himself. The State's attorney is criminal if he presses for a conviction, when upon the evidence he believes the prisoner innocent. If the evidence is not plain enough to justify a nolle prosequi, a public prosecutor should submit the case, with such comments as are pertinent, accompanied by a candid statement of his own doubts.

13. An attorney cannot reject the defense of a person accused of a criminal offense because he knows or believes him guilty. It is his duty by all fair and lawful means to present such defenses as the law of the land permits, to the end that no one may be deprived of his life or liberty but by due process of law.

14. An attorney must decline in a civil cause to conduct a prosecution, when satisfied that the purpose is merely to harrass or injure the opposite party, or to work oppression and wrong.

15. It is a bad practice for an attorney to communicate or argue privately with the judge as to the merits of his cause.

16. Newspaper advertisements, circulars and business cards, tendering professional services to the general public, are proper, but special solicitation of particular individuals to become clients is disreputable. Indirect advertisements for business, by furnishing or inspiring editorials or press notices regarding causes in which the attorney takes part, the manner in which they were conducted, the importance of his positions, the magnitude of the interests involved, and all other like self-laudation is of evil tendency and wholly unprofessional.

17. Newspaper publications by an attorney as to the merits of pending or anticipated litigation call forth discussion and reply from the opposite party, tend to prevent a fair trial in the courts, and otherwise prejudice the due administration of justice. It requires a strong case to justify such publications, and when proper it is unprofessional to make them anonymously.

18. When an attorney is witness for his client, except as to formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the cause to other counsel. Except when essential to the ends of justice, an attorney should scrupulously avoid testifying in court in behalf of his client as to any matter.

19. Assertions, sometimes made by counsel in argument, of a personal belief of the client's innocence or the justice of his cause, are to be discouraged.

20. It is indecent to hunt up defects in titles, and the like, and inform thereof, in order to be employed to bring suit; or to seek out a person supposed to have a cause of action and endeavor to get a fee to litigate about it. Except where ties of blood, relationship or trust make it an attorney's duty, it is unprofessional to volunteer advice to bring a law suit. Stirring up strife and litigation is forbidden by law and disreputable in morals.

21. Communications and confidence between clients and attorneys are the property and secrets of the client, and cannot be divulged except

at his instance; even the death of his client does not absolve the attorney from his obligation of secrecy.

22. The duty not to divulge the secrets of clients extends further than mere silence by the attorney and forbids accepting retainers or employment afterwards from others involving the client's interest in the matters about which the confidence was reposed. When the secrets or confidence of a former client may be availed of or be material in a subsequent suit, as a basis of any judgment which may injuriously affect his rights, the attorney can not appear in such cause without the consent of his former client.

23. An attorney can never attack an instrument or paper drawn by him for an infirmity apparent on its face; nor for any other cause where confidence has been reposed as to the facts concerning it. Where the attorney acted as a mere scrivener, and was not consulted as to the facts, and, unknown to him, the transaction amounted to a violation of the law, he may assail it on that ground, in suits between third persons or between parties to the instrument and strangers.

24. An attorney, openly and in his true character, may render purely professional services before committees regarding proposed legislation, and in advocacy of claims before departments of the government, upon the same principles of ethics which justify his appearance before the courts; but it is immoral and illegal for an attorney so engaged to conceal his attorneyship, or to emplay secret personal solicitations, or to use means other than those addressed to the reason or understanding, to influence action.

25. An attorney can never represent conflicting interests in the same suit of transactions, except by express consent of all concerned, with full knowledge of the facts. Even then such opposition is embarrassing and ought to be avoided. An attorney represents conflicting interests, within the meaning of the rule, when it is his duty, in behalf of one of his clients, to contend for that which duty to other clients in the transaction requires him to oppose.

26. "It is not desirable professional reputation to live and die with—that of a rough tongue, which makes a man to be sought and retained to gratify the malevolent feeling of a suitor, in hearing the other side well lashed and vilified."

27. An attorney is under no obligation to minister to the malevolence or prejudice of a client in the trial of conduct of a cause. The client can not be made the keeper of an attorney's conscience in professional matters. He can not demand as of right that his attorney shall abuse the opposite party, or indulge in offensive personalities. The attorney, under the solemnity of his oath, must determine for himself whether such a course is essential to the ends of justice, and therefore justifiable.

28. Clients, and not their attorneys, are the litigants, and whatever may be the ill feeling existing between clients, it is unprofessional for attorneys to partake of it in their conduct and demeanor to each other, or to suitors in the case.

29. In the conduct of litigation and the trial of causes, the attorneys should try the merits of the cause, and not try each other. It is not proper to allude to, or comment upon, the personal history or mental or physical peculiarities or idiosyncrasies of opposite counsel. Personalities should always be avoided, and the utmost courtesy always extended to an honorable opponent.

30. As to incidentaal matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite attorney to trial when he is under affliction or bereavement; forcing the trial on a particular day to the serious injury of the opposite attorney, when no harm will result from a

trial at a different time; the time allowed for signing a bill of exceptions, crossing interrogatories and the like, the attorney must be allowed to judge. No client has a right to demand that his attorney shall be illiberal in such matters, or that he should do anything therein repugnant to his own sense of honor and propriety; and if such a course is insisted on, the attorney should retire from the cause.

31. The miscarriage to which justice is subject and the uncertainty of predicting results admonish attorneys to beware of bold and confident assurances to clients, especially where the employment depends upon the assurance, and the case is not plain.

32. Prompt preparation for trial, punctuality in answering letters and keeping engagements, are due from an attorney to his client, and do much to strengthen their confidence and friendship.

33. An attorney is in honor bound to disclose to the client at the time of retainer all the circumstances of his relation to the parties, or interest or connection with the controversy which might justly influence the client in the selection of his attorney. He must decline to appear in any cause where his obligations or relations to the opposite parties will hinder or seriously embarrass the full and fearless discharge of all his duties.

34. An attorney should endeavor to obtain full knowledge of his client's cause before advising him, and is bound to give him a candid opinion of the merits and probable result of his cause. When the controversy will admit of it, he ought to seek to adjust it without ligitation, if practicable.

35. Money or other trust property coming into the possession of the attorney should be promptly reported, and never commingled with his private property or used by him, except with his client's knowledge and consent.

36. Attorneys should, as far as possible, avoid becoming either borrowers or creditors of their clients; and they ought scrupulously to refrain from bargaining about the subject-matter of the litigation, so long as the relation of attorney and client continues.

37. Natural solicitude of clients often prompts them to offer assistance of additional counsel. This should not be met, as it sometimes is, as evidence of want of confidence; but, after advising frankly with the client, it should be left to his determination.

38. Important agreements affecting the rights of clients should, as far as possible, be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made, because not reduced to writing, as required by rules of court.

39. Attorneys should not ignore known customs of practice of the bar of a particular court, even when the law permits, without giving opposing counsel timely notice.

40. An attorney should not attempt to compromise with the opposite party without notifying his attorney if practicable.

41. When attorneys jointly associated in a cause can not agree as to any matter vital to the interest of their client, the course to be pursued should be left to his determination. The client's decision should be cheerfully acquiesced in, unless the nature of the difference makes it impracticable for the attorney to co-operate heartily and effectively, in which event it is his duty to ask to be discharged.

42. An attorney ought not to engage in discussion or argument about the merits of the case with the opposite party without notice to his attorney.

43. Satisfactory relations between attorney and client are best preserved by a frank and explicit understanding at the outset as to the amount of the attorney's compensation, and, where it is possible, this should always be agreed on in advance.

44. In general, it is better to yield something to a client's dissatisfaction at the amount of the fee, though the sum be reasonable, than to engage in a lawsuit to justify it, which ought always to be avoided except as a last resort to prevent imposition and fraud.

45. In fixing fees the following elements should be considered—1st. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite properly to conduct the cause. 2nd. Whether the particular case will debar the attorney's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that the attorney would otherwise be employed, and herein of the loss of other business while employed in the particular case, and the antagonism with other clients growing out of the employment. 3d. The customary charges of the bar for similar services. 4th. The real amount involved and the benefit resulting from the service. 5th. Whether the compensation was contingent or assured. 6th. Is the client a regular one, retaining the attorney in all his business? No one of these considerations is in itself controlling. They are mere guides in ascertaining what the service was really worth; and in fixing the amount it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

46. Contingent fees may be contracted for, but they lead to many abuses, and certain compensation is to be preferred.

47. Casual and slight services should be rendered without charge by one attorney to another in his personal cause, but when the service goes beyond this, an attorney may be charged as other clients. Ordinary advice and services to the family of a deceased attorney should be rendered without charge, in most instances, and where the circumstances make it proper to charge, the fees should generally be less than in case of other clients.

48. Witnesses and suitors should be treated with fairness and kindness. When essential to the ends of justice to arraign their conduct or testimony, it should be done without vilification or unnecessary harshness. Fierceness of manner and uncivil behavior can add nothing to the truthful dissection of a false witness's testimony, and often rob deserved strictures of proper weight.

49. It is the duty of the court and its officers to provide for the comfort of the jurors. Displaying special concern for their comfort, and volunteering to ask favors for them, while they are present—such as frequent motions to adjourn trials, or take a recess, solely on the ground of the jury's fatigue or hunger, the uncomfortableness of their seats or the court room, and the like—should be avoided. Such interventions of attorneys, when proper, ought to be had privately with the court, whereby there will be no appearance of fawning upon the jury, nor ground for ill-feeling of the jury toward the court or opposite counsel if such requests are denied. For like reasons one attorney should never ask another in the presence of the jury to consent to its discharge or dispersion; and when such a request is made by the court the attorneys without indicating their preference, should ask to be heard after the jury withdraws. And all propositions from counsel to dispense with argument should be made and discussed out of the hearing of the jury.

50. An attorney ought never to converse privately with jurors about the case, and must avoid all unnecessary communication, even as to matters foreign to the cause, both before and during the trial. Any other course, no matter how blameless the attorney's motives, gives color for imputing evil designs, and often leads to scandal in the administration of justice.

51. An attorney assigned as counsel for an indignent prisoner ought not to ask to be excused for any light cause, and should always be a friend to the defenseless and oppressed.

ROLL OF MEMBERS.

Addleman, R. M. ..... Wheeling.
Alderson, Charles M. ..... Charleston.
Alderson, J. D. ..... Summersville.
Alexander, G. M. ..... Fairmont.
Allen, G. R. C. ..... Wheeling.
Allen, W. S. ..... Parkersburg.
Allen, R. M. ..... Elkins.
Allison, B. S. ..... Wheeling.
Atlitzer, R. G. ..... Clarksburg
Ambler, B. M. ..... Parkersburg.
Ambler, Mason G. ..... Parkersburg.
Anderson, H. M. ..... Charleston.
Anderson, L. C. ..... Welch.
Arbenz, John P. ..... Wheeling.
Arnett, U. N., Jr. ..... Fairmont.
Arnold, D. H. Hill, ... Elkins.
Ashby, W. L. ..... Charleston.
Atkinson, Geo. W. ..... Washington, D. C.
Avis, S. B. ..... Charleston.

Bailey, Benjamin F. ..... Grafton.
Baker, George C. ..... Morgantown.
Baker, R. M. ..... Huntington.
Baker, W. E. ..... Elkins.
Barron, J. F. ..... St. Marys.
Bassel, John ..... Clarksburg.
Bayer, Harry W. ..... Berkeley Springs.
Bennett, J. B. ..... Weston.
Bennett, W. G. ..... Weston.
Bent, Jas. A. ..... Elkins.
Black, V. L. ..... Charleston.
Blackmarr, F. L. ..... Sistersville.
Blair, J. V. ..... West Union.
Bland, Robert L. ..... Weston.
Blizzard, Reese ..... Parkersburg.
Blue, Fred O. ..... Philippi.
Bowers, Basil T. ..... New Martinsville.
Bowers, E. A. ..... Elkins.
Boyd, George E. ..... Wheeling.
Brannon, W. W. ..... Weston.
Brannon, Linn ..... Weston.
Briggs, Murray ..... Charleston.
Brooke, St. George T. ..... Morgantown.
Broun, Thomas L. ..... Charleston.
Brown, C. L. ..... Ravenswood.
Brown, Forest W. ..... Charles Town.
Brown, J. F. ..... Charleston.

Brown, T. A. ..... Elizabeth.
Brown, William G., Jr. ..... Kingwood.
Bullock, T. O. ..... Parkersburg.
Bunting, J. G. ..... Weston.
Burdette, A. W. ..... Grafton.
Buster, H. B. ..... Charleston.
Butcher, B. L. ..... Fairmont.
Byrer, Harry H. ..... Philippi.

Caldwell, Afred ..... Wheeling.
Caldwell, George B. ..... Wheeling.
Caldwell, William G. ..... Wheeling.
Caldwell, J. Mentor ..... Parkersburg.
Camden, H. P. ..... Parkersburg.
Campbell, A. N. ..... Union.
Campbell, C. W. ..... Huntington.
Campbell, John A. ..... New Cumberland.
Carrigan, Charles E. ..... Moundsville.
Cato, H. S. ..... Charleston.
Chambers, O. J. ..... Spencer.
Chase, George P. ..... Parkersburg.
Chilton, W. E. ..... Charleston.
Clark, F. W. ..... New Martinsville.
Clarke, A. J. ..... Wheeling.
Clay, Buckner ..... Charleston.
Clayton, W. C. ..... Keyser.
Cobb, W. H. ..... Elkins.
Coberly, Jas. ..... Elkins.
Conley, W. G. ..... Kingwood.
Conoway, Waitman H. ..... Fairmont.
Coniff, John J. ..... Wheeling.
Cook, F. C. ..... Welch.
Cooper, John T. ..... Parkersburg.
Cornett, T. H. ..... New Martinsville.
Cornwell, John J. ..... Romney.
Cornwell, W. B. ..... Fairmont.
Cox, Frank C. ..... Wheeling.
Cox, Frank ..... Morgantown.
Cramer, C. W. ..... Morgantown.
Crile, L. C. ..... Clarksburg.
Crogan, P. J. ..... Kingwood.
Cunningham, A. M. ..... Davis.
Cuppett, D. E. ..... Thomas.

Dailey, Benjamin ..... Moorefield.
Dailey, C. Wood ..... Elkins.
Dailey, Robert W. ..... Romney.
Dailey, T. G. ..... Elkins.
Daly, A. D. ..... Hinton.
Davenport, H. B. ..... Clay.
Davis, John J. ..... Clarksburg.
Davis, John W. ..... Clarksburg.
Dawson, W. M. O. ..... Charleston.
Dayton, A. G. ..... Philippi.
Dent, M. H. ..... Grafton.
Dent, W. R. D. ..... Grafton.
Deshields, H. C. ..... Fairmont.
Dice, Charles S. ..... Lewisburg.

Dillon, C. W. ..... Fayetteville.
Doolittle, Edward S. ..... Huntington.
Dorr, C. P. ..... Webster Springs.
Douglass, R. S. ..... Clarksburg.
Dovener, B. B. ..... Wheeling.
Drane, Henry K. ..... Piedmont.
Dunlap, R. F. ..... Hinton.

Edmiston, Andrew ..... Weston.
Enslow, F. B. ..... Huntington.
Evans, D. B. ..... Moundsville.
Ewing, James W. ..... Wheeling.

Faulkner, Charles J. ..... Martinsburg (Washington, D. C.)
Faulkner, E. Boyd ..... Martinsburg.
Fickeison, A. G. ..... Wheeling.
Fitzpatrick, Herbert ..... Huntington.
Fleming, A. B. ..... Fairmont.
Fleming, A. S. ..... Fairmont.
Fleming, G. M. ..... Buckhannon.
Fleming, R. F. ..... Fairmont.
Flick, C. P. ..... Wheeling.
Flournoy, R. P. ..... Charleston.
Fortney, Neil J. ..... Kingwood.
Fox, Fred K. ..... Sutton.
Frazer, James C. ..... Morgantown.
Freer, Romeo H. ..... Harrisville.

Gaines, J. H. ..... Charleston.
Gamble, M. W. ..... Moorefield.
Garvin, T. M. ..... Wheeling.
George, W. T. ..... Philippi.
Gibson, Braxton D. ..... Charles Town.
Gilchrist, George R. E. ..... Wheeling.
Gilkeson, H. B. ..... Romney.
Glasscock, S. F. ..... Morgantown.
Glasscock, W. E. ..... Morgantown.
Goodykoontz, Wells ..... Williamson.
Gore, C. W. ..... Clarksburg.
Greene, S. S. ..... Charleston.

Hall, Grant P. ..... Charleston.
Hall, S. B. ..... New Martinsville.
Hamill, James L. ..... Columbus, O.
Hamilton, A. W. ..... Fayetteville.
Hamilton, J. M. ..... Grantsville.
Harding, C. W. ..... Elkins.
Hardman, O. W. O. ..... Middlebourne.
Harmer, Harvey W. ..... Clarksburg.
Hartley, E. F. ..... Fairmont.
Haymond, William E. ..... Sutton.
Haymond, W. S. ..... Fairmont.
Hearn, William H. ..... Wheeling.
Henshaw, John ..... Fairmont.
Herndon, I. C. ..... Welch.
Henritze, T. L. ..... Welch.
Hervey, Henry C. ..... Wellsburg.
Higginbotham, C. C. ..... Buckhannon.

Higginbotham, Upshur ..... Hinton.
Hodges, M. S. ..... Franklin.
Hoff, S. M. ..... Harrisville.
Hoffheimer, George N. ..... Clarksburg.
Hoge, Patrick N. ..... Fairmont.
Hogg, Charles Edgar ..... Point Pleasant.
Hoke, J. T. ..... Windsor, Nova Scotia.
Holsberry, Leroy C. ..... Philippi.
Holt, J. Howard ..... Moundsville.
Hooton, A. L. ..... Moundsville.
Hoover, John M. ..... Webster Springs.
Hoover, B. M. ..... Elkins.
Horan, A. J. ..... Summersville.
Horan, T. B. ..... Summersville.
Horan, T. O. ..... Clay.
Houston, H. T. ..... Clarksburg.
Howard, John A. ..... Wheeling.
Hubbard, Nelson C. ..... Wheeling.
Hubbard, William P. ..... Wheeling.
Hubbard, Robert T., Jr. ..... Fayetteville.
Hughes, W. W. ..... Welch.
Hunt, A. B. ..... Roanoke, Va.

Iams, F. V. ..... New Martinsville.
Ice, W. T., Jr. ..... Philippi.
Ireland, A. D. ..... Parkersburg.
Isbell, L. D. ..... Huntington.

Jackson, Malcolm ..... Charleston.
Jackson, W. W. ..... Parkersburg.
Jacobs, Thomas P. ..... New Martinsville.
Jeffords, Tracy L. ..... (Washington, D. C.) Harper's Ferry.
Johnson, Charles B. ..... Clarksburg.
Johnson, E. M. ..... Petersburg.
Johnson, George W. ..... Parkersburg.
Jordan, Ivory C. ..... Charleston.

Keller, B. F. ..... Bramwell.
Kendall, U. S. ..... Fairmont.
Kilmer, W. C. ..... Martinsburg.
King, M. H. ..... Elkins.
Kirby, J. P. ..... Fairmont.
Kittle, Warren B. ..... Philippi.
Knight, E. W. ..... Charleston.
Koontz, Ben D. ..... Fayetteville.
Kreps, C. A. ..... Parkersburg.
Kunst, G. H. A. ..... Grafton.
Kump, H. G. ..... Elkins.

La Follette, L. M. ..... Charleston.
Laird, John F. ..... Parkersburg.
Law, James E. ..... Clarksburg.
Lazelle, I. G. ..... Morgantown.
Leftwich, F. C. ..... Madison.
Lehman, A. L. ..... Fairmont.
Lehman, John L. ..... Fairmont.
Leonard, Dan B. ..... Parkersburg.
Lindsay, Ward B. ..... Martinsburg.

Linn, R. G. ..... Charleston.
Lively, H. S. ..... Fairmont.
Loeb, Leo ..... Charleston.
Lowe, Scott C. ..... Fairmont.
Lynch, C. W. ..... Clarksburg.

Mann, W. C. ..... Moundsville.
Marshall, O. S. ..... New Cumberland.
Martin, Clarence E. ..... Martinsburg.
Martin, F. T. ..... Fairmont.
Mason, Jno. W. ..... Fairmont.
Mathews, D. E. ..... Huntington.
Mathews, Daniel ..... Charleston.
Mathews, William B. ..... Charleston.
Mathews, W. G. ..... Charleston.
Maxey, Edwin ..... Morgantown.
Maxwell, Haymond ..... Clarksburg.
Maxwell, C. W. ..... Elkins.
Maxwell, W. B. ..... Elkins.
May, Clark W. ..... Hamlin.
Meredith, J. A. ..... Fairmont.
Meredith, W. S. ..... Fairmont.
Merrick, C. D. ..... Parkersburg.
Meyer, W. C. ..... Wheeling.
Miller, James H. ..... Hinton.
Miller, W. N. ..... Parkersburg.
Moats, Frank P. ..... Parkersburg.
Mollohan, W. ..... Charleston.
Monroe, R. W. ..... Kingwood.
Moreland, Joseph ..... Morgantown.
Morgan, E. F. ..... Fairmont.
Morris, C. E. ..... Wheeling.
Morris, Tusca ..... Fairmont.
Morton, E. H. ..... Webster Springs.
Moss, Hunter H., Jr. ..... Parkersburg.
Murphy, C. M. ..... Philippi.
MacDonald, William ..... Keyser.
McCamic, Charles ..... Moundsville.
McCauley, G. W. ..... Moorefield.
McClintic, G. W. ..... Charleston.
McClintic, L. M. ..... Marlington.
McCluer, James S. ..... Parkersburg.
McCrum, A. Bliss ..... Kingwood.
McDonald, Angus W. ..... Charles Town.
McDonald, A. W. ..... Charleston.
McGraw, John T. ..... Grafton.
McGregor, F. H. ..... Parkersburg.
McIntire, Aloysius C. ..... Berleley Springs.
McMahon, Frank A. ..... Wheeling.
McMahon, Richard R. ..... Harper's Ferry.
McPeak, E. M. ..... Fayetteville.
McRa, Duncan ..... Charleston.
McWhorter, H. C. ..... Charleston.
McWhorter, J. C. ..... Buckhannon.
McWhorter, J. M. ..... Lewisburg.

Nadenbousch, A. C. ..... Martinsburg.
Naylor, Joseph R. ..... Wheeling.

Neely, M. M. ..... Fairmont.
Nesbitt, Frank W. ..... Wheeling.
Noll, Allen B. ..... Martinsburg.
Northcott, Elliott ..... Huntington.
Nuckolls, E. L. ..... Fayetteville.

Ogden, M. W. ..... Fairmont.
Osenton, Charles W. ..... Fayetteville.

Palmer, John C., Jr. ..... Fairmont.
Parks, T. N. ..... Wellsburg.
Patton, A. G. ..... Parkersburg.
Payne, W. Dallas ..... Charleston.
Peck, Melville ..... Philippi.
Pendleton, Walter ..... Spencer.
Peterkin, William G. ..... Parkersburg.
Pifer, Felix C. ..... Buckhannon.
Poffenbarger, George ..... Point Pleasant.
Poole, X. ..... Martinsburg.
Post, Melville D. ..... Grafton.
Poteet, L. E. ..... Fayetteville.
Poundstone, A. M. ..... Buckhannon.
Powell, Charles ..... Fairmont.
Preston, A. D. ..... Beckley.
Preston, John A. ..... Lewisburg.
Price, Andrew ..... Marlington.
Price, George E. ..... Charleston.
Prickett, N. C. ..... Ravenswood.

Quarrier, R. A. ..... Charleston.

Ramage, B. F. ..... Fairmont.
Reay, D. C. ..... Morgantown.
Reed, T. N. ..... Hinton.
Reger, Roy ..... Buckhannon.
Reger, Shelton L. ..... Elkins.
Reymann, Lawrence A. ..... Wheeling.
Reynolds, F. M. ..... Keyser.
Richards, H. C. ..... Wheeling.
Riley, T. S. ..... Wheeling.
Ritz, H. A. ..... Bluefield.
Robinson, E. L. ..... New Martinsville.
Robinson, Ira E. ..... Grafton.
Robinson, Jed. W. ..... Elkins.
Rucker, H. Scott ..... Marlington.
Rucker, E. P. ..... Welch.
Russell, Henry M. ..... Wheeling.

Sanders, J. M. ..... Bluefield.
Sawtelle, A. L. ..... Wheeling.
Scherr, Harry ..... Williamson.
Scott, W. ..... Clarksburg.
Scott, C. H. ..... Elkins.
See, Leroy ..... Elkins.
Shaver, C. L. ..... Fairmont.
Shaw, Harry ..... Fairmont.
Sheppard, J. A. ..... Williamson.
Shirley, George P. ..... Parsons.

Showacre, Charles A. ..... Moundsville.
Showalter, E. M. ..... Fairmont.
Showalter, H. C. ..... Harrisville.
Shrewsbury, G. H. ..... Charleston.
Simpson, J. Coleman ..... Moundsville.
Smith, Charles A. ..... Parkersburg.
Smith, E. G. ..... Clarksburg.
Smith, Harvey F. ..... Clarksburg.
Smith, Levin ..... Parkersburg.
Smith, R. R. ..... Welch.
Smith, S. G. ..... Wheeling.
Smith, W. W. ..... Morgantown.
Snider, Millard F. ..... Clarksburg.
Sommerville, J. B. ..... Wheeling.
Sommerville, Sydney H. ..... Grafton.
Spears, S. T. ..... Elkins.
Spencer, J. S. ..... Point Pleasant.
Sperry, M. G. ..... Clarksburg.
Sperry, Clarence B. ..... Clarksburg.
Spilman, R. S. ..... Charleston.
Stallings, A. R. ..... Davis.
Stanley, Amos O. ..... Fairmont.
Staples, Waller R. ..... Roanoke, Va.
Stewart, Edgar B. ..... Morgantown.
Stewart, Terrence D. ..... Morgantown.
Stifel, L. F. ..... Wheeling.
Stiles, M. F. ..... Charleston.
Stokes, S. D. ..... Williamson.
Stokes, W. H. ..... Welch.
Stout, W. Frank ..... Clarksburg.
Strader, J. F. ..... Beverly.
Strader, Wilbur J. ..... Elkins.
Straus, W. M. ..... Parkersburg.
Strickling, James H. ..... Sistersville.
Strieby, C. O. ..... Davis.
Strother, D. J. F. ..... Welch.
Swint, Charles P. ..... Weston.

Talbott, E. D. ..... Elkins.
Talbott, W. T. ..... Webster Springs
Talbot, W. D. ..... Buckhannon.
Taylor, Blaine W. ..... Elkins.
Taylor, LeRoy ..... Mannington.
Teter, C. F. ..... Philippi.
Thompson, W. R. ..... Huntington.
Thurmond, H. C. ..... Webster Springs
Turner, Smith D. ..... Parkersburg.

Valantine, A. J. ..... Parsons.
Vandale, J. A. A. ..... Spencer.
Vandervort, J. W. ..... Parkersburg.
Van Sickle, H. L. ..... Lewisburg.
Van Winkle, W. W. ..... Parkersburg.
Vincent, G. A. ..... Fairmont.
Vinson, Z. T. ..... Huntington.
Viquesney, J. A. ..... Belington.

Walker, Stewart W. ..... Martinsburg.
Wallace, George S. ..... Huntington.
Wamsley, Jared L. ..... Elkins.
Warder, Hugh ..... Grafton.
Ware, J. Blackburn ..... Belington.
Watts, C. C. ..... Charleston.
Watts, R. A. ..... Fairmont.
Wehrle, John ..... Charleston.
Wells, Ross ..... St. Marys.
Westenhaver, D. C. ..... Cleveland, O.
White, J. B. ..... Charleston.
White, Kemble ..... Fairmont.
White, Robert ..... Wheeling.
Whitten, John L. ..... Point Pleasant.
Willey, W. P. ..... Morgantown.
Williams, Homer W. ..... Clarksburg.
Williams, L. J. ..... Lewisburg.
Willis, M. H. ..... West Union.
Wilson, W. G. ..... Elkins.
Wingerter, Ferdinand ..... Wheeling.
Wolfe, W. H., Jr. ..... Parkersburg.
Wooddell, W. L. ..... Webster Springs
Woods, H. B. ..... Harrisville.
Woods, J. Hop ..... Philippi.
Woods, J. M. ..... Martinsburg.
Woods, Samuel V. ..... Philippi.

Yoke, F. R. ..... Morgantown.
Young, U. G. ..... Buckhannon.

LIST OF MEMBERS BY COUNTIES.

Barbour County.

Blue, Fred O.		Philippi.
Byrer, Harry H.		Philippi.
Dayton, A. G.		Philippi.
George, W. T.		Philippi.
Holsberry, Leroy C.		Philippi.
Ice, W. T., Jr.		Philippi.
Kittle, Warren B.		Philippi.
Murphy, C. M.		Philippi.
Peck, Melville		Philippi.
Teter, C. F.		Philippi.
Viquesney, J. A.		Belington.
Ware, J. Blackburn		Belington.
Woods, J. Hop		Philippi.
Woods, Samuel V.		Philippi.

Berkeley County.

Faulkner, Charles J.	(Washington, D. C.,)	Martinsburg.
Faulkner, E. Boyd		Martinsburg.
Kilmer, W. C.		Martinsburg.
Lindsay, Ward B.		Martinsburg.
Martin, Clarence E.		Martinsburg.
Nadenbousch, A. C.		Martinsburg.
Noll, Allen B.		Martinsburg.
Poole, X.		Martinsburg.
Walker, Stewart W.		Martinsburg.
Woods, J. M.		Martinsburg.

Boone County.

Leftwich, F. C.		Madison.

Braxton County.

Fox, Frek K.		Sutton.
Haymond, William E.		Sutton.

Brooke County.

Hervey, Henry C.		Wellsburg.
Palmer, John C., Jr.		Wellsburg.

Cabell County.

Baker, R. M.		Huntington.
Campbell, C. W.		Huntington.
Doolittle, Edward S.		Huntington.
Enslow, F. B.		Huntington.
Fitzpatrick, Herbert		Huntington.

Isbell, L. D. ..... Huntington.
Mathews, D. E. ..... Huntington.
Northcott, Elliott ..... Huntington.
Thompson, W. R. ..... Huntington.
Vinson, Z. T. ..... Huntington.
Wallace, George S. ..... Huntington.

Calhoun County.

Hamilton, J. M. ..... Grantsville.

Clay County.

Davenport, H. B. ..... Clay.
Horan, A. O. ..... Clay.

Doddridge County.

Blair, J. V. ..... West Union.
Willis, M. H. ..... West Union.

Fayette County.

Dillon, C. W. ..... Fayetteville.
Hamilton, A. W. ..... Fayetteville.
Hubbard, Robert T., Jr. ..... Fayetteville.
Koontz, B. D. ..... Fayetteville.
McPeak, E. M. ..... Fayetteville.
Nuckolls, E. L. ..... Fayetteville.
Osenton, Charles W. ..... Fayetteville.
Poteet, L. E. ..... Fayetteville.

Grant County.

Johnson, E. M. ..... Petersburg.

Greenbrier County.

Dice, Charles S. ..... Lewisburg.
McWhorter, J. M. ..... Lewisburg.
Preston, John A. ..... Lewisburg.
Van Sickle, H. L. ..... Lewisburg.
Williams, L. J. ..... Lewisburg.

Hampshire County.

Cornwell, John J. ..... Romney.
Dailey, R. W. ..... Romney.
Gilkeson, H. B. ..... Romney.

Hancock County.

Campbell, John A. ..... New Cumberland.
Marshall, O. S. ..... New Cumberland.

Hardy County.

Dailey, Benjamin ..... Moorefield.
Gamble, M. W. ..... Moorefield.
McCauley, G. W. ..... Moorefield.

Harrison County.

Altizer, R. G. ..... Clarksburg.
Bassel, John ..... Clarksburg.

Criles, L. C. ..... Clarksburg.
Davis, John J. ..... Clarksburg.
Davis, John W. ..... Clarksburg.
Douglass, R. S. ..... Clarksburg.
Gore, C. W. ..... Clarksburg.
Harmer, Harvey W. ..... Clarksburg.
Hoffheimer, George N. ..... Clarksburg.
Houston, H. T. ..... Clarksburg.
Johnson, Charles B. ..... Clarksburg.
Law, James E. ..... Clarksburg.
Lynch, C. W. ..... Clarksburg.
Maxwell, Haymond ..... Clarksburg.
Scott, W. ..... Clarksburg.
Smith, E. G. ..... Clarksburg.
Smith, Harvey F. ..... Clarksburg.
Snider, Millard F. ..... Clarksburg.
Sperry, Clarence B. ..... Clarksburg.
Sperry, M. G. ..... Clarksburg.
Stout, W. Frank ..... Clarksburg.
Williams, Homer W. ..... Clarksburg.

Jefferson County.

Brown, Forest W. ..... Charles Town.
Gibson, Braxton D. ..... Charles Town.
Jeffords, Tracy L. ..... (Washington, D. C.) Harper's Ferry.
McDonald, Angus W. ..... Charles Town.
McMahon, Richard R. ..... Marper's Ferry.

Jackson County.

Brown, C. L. ..... Ravenswood.
Prickett, N. C. ..... Ravenswood.

Kanawha County.

Alderson, Charles M. ..... Charleston.
Anderson, H. M. ..... Charleston.
Ashby, W. L. ..... Charleston.
Avis, S. B. ..... Charleston.
Black, V. L. ..... Charleston.
Briggs, Murray ..... Charleston.
Broun, Thomas L. ..... Charleston.
Brown, James F. ..... Charleston.
Buster, H. B. ..... Charleston.
Cato, H. S. ..... Charleston.
Chilton, W. E. ..... Charleston.
Clay, Buckner ..... Charleston.
Dawson, W. M. O. ..... Charleston.
Flournoy, R. P. ..... Charleston.
Gaines, J. H. ..... Charleston.
Green, S. S. ..... Charleston.
Hall, Grant P. ..... Charleston.
Jackson, Malcolm ..... Charleston.
Jordan, Ivory C. ..... Charleston.
Knight, E. W. ..... Charleston.
La Follette, L. M. ..... Charleston.
Linn, R. G. ..... Charleston.
Loeb, Leo ..... Charleston.
Mathews, Daniel ..... Charleston.

Mathews, William B. ..... Charleston.
Mathews, W. G. ..... Charleston.
Mollohan, W. ..... Charleston.
McClintic, George W. ..... Charleston.
McDonald, Angus W. ..... Charleston.
McRa, Duncan ..... Charleston.
McWhorter, H. C. ..... Charleston.
Payne, W. Dallas ..... Charleston.
Price, George E. ..... Charleston.
Quarrier, R. A. ..... Charleston.
Shrewsbury, G. H. ..... Charleston.
Spilman, R. S. ..... Charleston.
Stiles, M. F. ..... Charleston.
Watts, C. C. ..... Charleston.
Wehrle, John ..... Charleston.
White, J. B. ..... Charleston.

Lewis County.

Bennett, J. B. ..... Weston.
Bennett, W. G. ..... Weston.
Bland, Robert L. ..... Weston.
Brannon, Linn ..... Weston.
Brannon, W. W. ..... Weston.
Bunting, J. G. ..... Weston.
Edmiston, Andrew ..... Weston.
Swint, Charles P. ..... Weston.

Lincoln County.

May, Clark W. ..... Hamlin.

Marion County.

Alexander, G. M. ..... Fairmont.
Arnett, U. N. Jr. ..... Fairmont.
Butcher, B. L. ..... Fairmont.
Conaway, Waitman H. ..... Fairmont.
Cornwell, W. B. ..... Fairmont.
Deshields, H. C. ..... Fairmont.
Fleming, A. B. ..... Fairmont.
Fleming, A. S. ..... Fairmont.
Fleming, R. F. ..... Fairmont.
Hartley, E. F. ..... Fairmont.
Haymond, W. S. ..... Fairmont.
Henshaw, John ..... Fairmont.
Hoge, Patrick M. ..... Fairmont.
Kendall, U. S. ..... Fairmont.
Kirby, J. P. ..... Fairmont.
Lehman, A. L. ..... Fairmont.
Lehman, John L. ..... Fairmont.
Lively, H. S. ..... Fairmont.
Lowe, Scott C. ..... Fairmont.
Martin, F. T. ..... Fairmont.
Mason, John W. ..... Fairmont.
Meredith, J. A. ..... Fairmont.
Meredith, W. S. ..... Fairmont.
Morgan, E. F. ..... Fairmont.
Morris, Tusca ..... Fairmont.
Neely, M. M. ..... Fairmont.

Ogden, M. W. ..... Fairmont.
Parks, T. N. ..... Fairmont.
Powell, Charles ..... Fairmont.
Ramage, B. F. ..... Fairmont.
Shaver, C. L. ..... Fairmont.
Shaw, Harry ..... Fairmont.
Showalter, E. M. ..... Fairmont.
Stanley, Amos O. ..... Fairmont.
Taylor, Le Roy ..... Mannington.
Vincent, G. A. ..... Fairmont.
Watts, R. A. ..... Fairmont.
White, Kemble ..... Fairmont.

Marshall County.

Carrigan, Charles E. ..... Moundsville.
Evans, D. B. ..... Moundsville.
Holt, J. Howard ..... Moundsville.
Hooton, A. L. ..... Moundsville.
Mann, W. C. ..... Moundsville.
McCamic, Charles ..... Moundsville.
Showacre, Charles A. ..... Moundsville.
Simpson, J. Coleman ..... Moundsville.

Mason County.

Poffenbarger, George C. ..... Point Pleasant.
Spencer, J. S. ..... Point Pleasant.
Whitten, John L. ..... Point Pleasant.

Mercer County.

Keller, B. F. ..... Bramwell.
Ritz, H. A. ..... Bluefield.
Sanders, J. M. ..... Bluefield.

Mineral County.

Clayton, W. C. ..... Keyser.
Drane, Henry K. ..... Piedmont.
MacDonald, William ..... Keyser.
Reynolds, F. M. ..... Keyser.

Mingo County.

Goodykoontz, Wells ..... Williamson.
Scherr, Harry ..... Williamson.
Sheppard, J. A. ..... Williamson.
Stokes, S. D. ..... Williamson.

Monongalia County.

Baker, George C. ..... Morgantown.
Brooke, St. George T. ..... Morgantown.
Cox, Frank ..... Morgantown.
Cramer, C. W. ..... Morgantown.
Frazer, James C. ..... Morgantown.
Glasscock, S. F. ..... Morgantown.
Glasscock, William E. ..... Morgantown.
Hogg, Chas. E. ..... Morgantown.
Lazelle, I. G. ..... Morgantown.
Maxey, Edwin ..... Morgantown.

Moreland, Joseph ..... Morgantown.
Reay, D. C. ..... Morgantown.
Smith, W. W. ..... Morgantown.
Stewart, Edgar B. ..... Morgantown.
Stewart, Terrence D. ..... Morgantown.
Willey, W. P. ..... Morgantown.
Yeager, L. A. ..... Morgantown.
Yoke, F. R. ..... Morgantown.

Monroe County.

Campbell, A. N. ..... Union.

Morgan County.

Boyer, Harry W. ..... Berkeley Springs
McIntire, Aloysius C. ..... Berkeley Springs.

McDowell County.

Anderson, L. C. ..... Welch.
Cook, F. C. ..... Welch.
Henritze, T. L. ..... Welch.
Herndon, I. C. ..... Welch.
Hughes, W. W. ..... Welch.
Rucker, E. P. ..... Welch.
Smith, R. R. ..... Welch.
Stokes, W. H. ..... Welch.
Strother, D. J. F. ..... Welch.

Nicholas County.

Alderson, John D. ..... Summersville.
Horan, A. J. ..... Summersville.
Horan, T. B. ..... Summersville.

Ohio County.

Addleman, R. M. ..... Wheeling.
Allen, G. R. C. ..... Wheeling.
Allison, B. S. ..... Wheeling.
Arbenz, John P. ..... Wheeling.
Boyd, George E. ..... Wheeling.
Caldwell, Alfred ..... Wheeling.
Caldwell, George B. ..... Wheeling.
Caldwell, Wiliam G. ..... Wheeling.
Carke, A. J. ..... Wheeling.
Coniff, John J. ..... Wheeling.
Cox, Frank C. ..... Wheeling.
Dovener, B. B. ..... Wheeling.
Ewing, James W. ..... Wheeling.
Fickeison, A. G. ..... Wheeling.
Flick, C. P. ..... Wheeling.
Garvin, T. M. ..... Wheeling.
Gilchrist, George R. E. ..... Wheeling.
Hearne, William H. ..... Wheeling.
Howard, John A. ..... Wheeling.
Hubbard, Nelson C. ..... Wheeling.
Hubbard, William P. ..... Wheeling.
McMahon, Frank A. ..... Wheeling.
Meyer, W. C. ..... Wheeling.
Morris, C. E. ..... Wheeling.

Naylor, Joseph R. ..... Wheeling.
Nesbitt, Frank W. ..... Wheeling.
Reymann, Lawrence A. ..... Wheeling.
Richards, H. C. ..... Wheeling.
Riley, T. S. ..... Wheeling.
Russell, Henry M. ..... Wheeling.
Sawtelle, A. L. ..... Wheeling.
Smith, S. G. ..... Wheeling.
Sommerville, J. B. ..... Wheeling.
Stifel, L. F. ..... Wheeling.
White, Robert ..... Wheeling.
Wingerter, Ferdinand ..... Wheeling.

Pendleton County.

Hodges, M. S. ..... Franklin.

Pleasants County.

Barron, J. F. ..... St. Marys.
Johnson, Clyde B. ..... St. Marys.
Wells, Ross ..... St. Marys.

Pocahontas County.

McClintic, L. M. ..... Marlinton.
Price, Andrew ..... Marlinton.
Rucker, H. Scott ..... Marlinton.

Preston County.

Brown, William G., Jr. ..... Kingwood.
Conley, W. G. ..... Kingwood.
Crogan, P. J. ..... Kingwood.
Fortney, Neil J. ..... Kingwood.
McCrum, A. Bliss ..... Kingwood.
Monroe, R. W. ..... Kingwood.

Raleigh County.

Preston, A. D. ..... Beckley.

Randolph County.

Allen, R. H. ..... Elkins.
Arnold, D. H. Hill ..... Elkins.
Baker, W. E. ..... Elkins.
Bent, Jas. A. ..... Elkins.
Bowers, E. A. ..... Elkins.
Cobb, W. H. ..... Elkins.
Coberly, James ..... Elkins.
Dailey, C. W. ..... Elkins.
Dailey, T. G. ..... Elkins.
Harding, C. W. ..... Elkins.
Hoover, B. M. ..... Elkins.
King, M. H. ..... Elkins.
Kump, H. G. ..... Elkins.
Maxwell, C. W. ..... Elkins.
Maxwell, W. B. ..... Elkins.
Robinson, Jed. W. ..... Elkins.
Reger, Shelton L. ..... Elkins.
Scott, C. H. ..... Elkins.

See, Leroy ..... Elkins.
Spears, Samuel T. ..... Elkins.
Strader, J. F. ..... Elkins.
Strader, Wilbur J. ..... Elkins.
Talbott, E. D. ..... Elkins.
Taylor, Blaine W. ..... Elkins.
Wamsley, Jared L. ..... Elkins.
Wilson, W. G. ..... Elkins.

Ritchie County.

Freer, Romeo H. ..... Harrisville.
Hoff, S. M. ..... Harrisville.
Showalter, H. C. ..... Harrisville.
Woods, H. B. ..... Harrisville.

Roane County.

Chambers, O. J. ..... Spencer.
Pendleton, Walter ..... Spencer.
Vandale, J. A. A. ..... Spencer.

Summers County.

Daly, A. D. ..... Hinton.
Dunlap, R. F. ..... Hinton.
Higginbotham, Upshur ..... Hinton.
Miller, James H. ..... Hinton.
Reed, T. N. ..... Hinton.

Taylor County.

Bailey, Benjamin F. ..... Grafton.
Burdette, A. W. ..... Grafton.
Dent, M. H. ..... Grafton.
Dent, W. R. D. ..... Grafton.
Kunst, G. H. A. ..... Grafton.
McGraw, John T. ..... Grafton.
Post, Melville D. ..... Grafton.
Robinson, Ira E. ..... Grafton.
Sommerville, Sydney H. ..... Grafton.
Warder, Hugh ..... Grafton.

Tucker County.

Cunningham, A. M. ..... Davis.
Cuppett, D. E. ..... Thomas.
Shirley, George P. ..... Parsons.
Stallings, A. R. ..... Davis.
Strieby, C. O. ..... Davis.
Valantine, A. J. ..... Parsons.

Tyler County.

Blackmarr, F. E. ..... Sistersville.
Hardman, O. W. O. ..... Middlebourne.
Strickling, James H. ..... Sistersville.

Upshur County.

Fleming, G. M. ..... Buckhannon.
Higginbotham, C. C. ..... Buckhannon.
McWhorter, J. C. ..... Buckhannon.

Pifer, Felix C. ..... Buckhannon.
Poundstone, A. M. ..... Buckhannon.
Reger, Roy ..... Buckhannon.
Talbot, W. D. ..... Buckhannon.
Young, U. G. ..... Buckhannon.

Webster County.

Dorr, C. P. ..... Webster Springs.
Hoover, John M. ..... Webster Springs.
Morton, E. H. ..... Webster Springs.
Talbott, W. T. ..... Webster Springs.
Thurmond, H. C. ..... Webster Springs.
Wooddell, W. L. ..... Webster Springs.

Wetzel County.

Bowers, Basil T. ..... New Martinsville.
Clark, F. W. ..... New Martinsville.
Cornett, F. C. ..... New Martinsville.
Hall, S. B. ..... New Martinsville.
Iams, Frank V. ..... New Martinsville.
Jacobs, T. P. ..... New Martinsville.
Robinson, E. L. ..... New Martinsville.

Wirt County.

Brown, T. A. ..... Elizabeth.

Wood County.

Allen, W. S. ..... Parkersburg.
Ambler, B. M. ..... Parkersburg.
Ambler, Mason G. ..... Parkersburg.
Blizzard, Reese ..... Parkersburg.
Bullock, T. O. ..... Parkersburg.
Caldwell, J. Mentor ..... Parkersburg.
Camden, H. P. ..... Parkersburg.
Chase, George P. ..... Parkersburg.
Cooper, John T. ..... Parkersburg.
Ireland, A. D. ..... Parkersburg.
Jackson, W. W. ..... Parkersburg.
Johnson, George W. ..... Parkersburg.
Kreps, C. A. ..... Parkersburg.
Laird, John F. ..... Parkersburg.
Leonard, Dan B. ..... Parkersburg.
Merrick, C. D. ..... Parkersburg.
Miller, W. N. ..... Parkersburg.
Moats, F. P. ..... Parkersburg.
Moss, Hunter H., Jr. ..... Parkersburg.
McCluer, James S. ..... Parkersburg.
McGregor, F. H. ..... Parkersburg.
Patton, A. G. ..... Parkersburg.
Peterkin, William G. ..... Parkersburg.
Smith, Charles A. ..... Parkersburg.
Smith, Levin ..... Parkersburg.
Straus, W. M. ..... Parkersburg.
Turner, Smith D. ..... Parkersburg.
Vandervort, J. W. ..... Parkersburg.
Van Winkle, W. W. ..... Parkersburg.
Wolfe, W. H., Jr. ..... Parkersburg.

Cleveland, Ohio,
Westenhaver, D. C.

Columbus, Ohio,
James L. Hamill.

Roanoke, Virginia,
Hunt, A. B.
Staples, Waller R.

Windsor, Nova Scotia,
Hoke, J. T.

Washington, D. C.,
Atkinson, George W., (Court of Claims).
Faulkner, Charles J., (Kellogg Bldg).
Jeffords, Tracy L.

Data as to Past Meetings of the Association,

Officers, Addresses and Papers.

INAUGURAL MEETING:—Grafton, July 8, 1886.
President pro tem.—W. P. Hubbard.
Secretary pro tem.—Joseph Marum.

FIRST MEETING:—Charleston; January 19-20, 1887.
President—Joseph Sprigg.
Secretary—W. P. Willey.
Treasurer—F. M. Reynolds.

SECOND (Reported as First Annual) MEETING,
Berkeley Springs; July 27-29 1887.
President—Joseph Sprigg.
Secretary—W. P. Willey.
Treasurer—F. M. Reynolds.
Annual Address—Hon. Waitman T. Willey—"Law & Lawyers—Their Relation to a Republican Form of Government".
Address of President Sprigg.
Papers—H. M. Russell, Esq.—"The Lawyer in Belles-Lettres".
B. M. Ambler, Esq.—"A West Va. Wife, her Property and her Contracts".

THIRD (Reported as Second Annual) MEETING:
Wheeling; June 27-29, 1888.
President—John J. Jacob.
Secretary—W. P. Willey.
Treasurer—F. M. Reynolds.
Address of President Jacob.
Papers—D. C. Westenhaver, Esq.—"The West Va. Doctrine of Eminent Domain".
—W. P. Hubbard, Esq.—"West Va. Statutes—Their Form and Language".
—D. B. Lucas, Esq.—"The Origin & Nature of Monopoly".
—R. Heber Smith, Esq.—"The Right of Insolvent Debtors in West Va. to prefer Creditors by Voluntary Conveyance—The Evils thereof and the Remedy".

FOURTH (Reported as Third Annual) MEETING:
White Sulphur Springs; July 29-30, 1889.
President—B. M. Ambler.
Secretary—W. P. Willey.
Treasurer—F. M. Reynolds.
Annual Address—Col. Charles Marshall of Baltimore—"Abuses of Corporate Power".
Address of President Ambler.
"Prize Essay"—Jno. R. Donehoo, Esq.—"The Effect of the Statute (Code C. 99 Sec. 10) Authorizing the Action of Assumpsit to be brought on a Sealed Instrument, in Relation to Pleading and Evidence".

FIFTH (Reported as Fourth Annual) MEETING:
Parkersburg; June 25-26, 1890.
President—E. B. Knight.
Secretary—W. P. Willey.
Treasurer—F. M. Reynolds.
(Vice Pres. Geo. E. Price, presided in the absence of Pres. Knight).
Annual Address—Hon. Wm. M. Ramsay, of Cincinnati—"The Profession of the Law".

SIXTH (Reported as Fifth Annual) MEETING:
Parkersburg, January 7-8, 1891.
President—Henry M. Russell.
Secretary—B. M. Ambler.
Treasurer—F. M. Reynolds.
Address of President Russell—"West Virginia Corporations".
Paper—Robert McEldowney, Esq.—"The West Va. Bar Association vs. McEldowney & Johnson".

SEVENTH (Reported as Sixth Annual) MEETING:
Parkersburg, Jan. 6-7, 1892.
President—W. P. Willey.
Secretary—B. M. Ambler.
Treasurer—W. N. Miller.
Address of President Willey.
Papers—J. D. Ewing, Esq.—"Trial by Jury".
—D. C. Westenhaver, Esq.—"Confusion of our Statutory Law".
—W. N. Miller, Esy.—"Codification".

EIGHTH (Reported as Seventh Annual) MEETING:
Parkersburg, Jan. 4-5, 1893.
President—Okey Johnson.
Secretary—B. M. Ambler.
Treasurer—W. N. Miller.
Annual Address—Hon. John K. Cowan, of Baltimore, Md.
Address of President Johnson—"Legal Ethics".
Paper—T. P. Jacobs, Esq.—"Reading Law to the Jury".

NINTH (Reported as Eighth Annual) MEETING:
Grafton, Jan. 3-4, 1894.
President—J. D. Ewing.
Secretary—D. C. Westenhaver.
Treasurer—W. N. Miller.
Address of President Ewing.
Paper—Henry M. Russell, Esq.—"Compensation of the Judiciary".

TENTH (Reported as Ninth Annual) MEETING:
Charleston, Feb. 5-6, 1895.
President—T. P. Jacobs.
Secretary—D. C. Westenhaver.
Treasurer—W. N. Miller.
Annual Address—Hon. R. T. Barton, of Winchester, Va.—"Inter-State Commerce".
Address of President Jacobs.
Paper—John W. Mason, Esq.—"Bills of Exception".

ELEVENTH (Reported as Tenth Annual) MEETING:
Wheeling, Oct. 30-31, 1895.
President—W. P. Hubbard.
Secretary—D. C. Westenhaver.
Treasurer—W. N. Miller.
Annual Address—Hon. J. Randolph Tucker, of Lexington, Va.—"Virginia's Place in Constitutional and Municipal Jurisprudence."
Address of President Hubbard.
Papers—Forrest W. Brown, Esq.—"Criminal Trials".
—Wm. Erskine, Esq.—"Control of West Va. Municipal Charters".
—Geo. E. Price, Esq.—"Recommendations in Relation to the Law of Ejectment".

TWELFTH (Reported as Eleventh Annual) MEETING:
Huntington, Nov. 11-12, 1896.
President—Forrest W. Brown.
Secretary—Jas. W. Ewing.
Treasurer—W. N. Miller.
(Vice Pres. J. W. Vandervort presided, in the absence of Pres. Brown).
Annual Address—Hon. H. D. Peck, of Cincinnati.
Papers—P. J. Crogan, Esq.—"Are Juries to Judge of the Law as well as the Facts in Criminal Cases?"
—Benj. Trapnell, Esq.—"The Logical Conception of a Corporation."
—Geo. E. Price, Esq.—"The Jury".
—S. G. Smith, Esq.—"Mechanics Liens in West Virginia."

THIRTEENTH (Reported as Twelfth Annual) MEETING:
Morgantown, Nov. 3-4, 1897.
President—P. J. Crogan.
Secretary—Jas. W. Ewing.
Treasurer—W. N. Miller.
Annual Address—Hon. Seymour D. Thompson—"Judicial Supremacy".
Address of President Crogan.
Papers—Joseph Moreland, Esq.—"Some Professional Improprieties".
—Wm. G. Peterkin, Esq.—"Government by Injunction".
—D. C. Westenhaver, Esq.—"Some Suggestions Touching State and Local Taxation".
—B. L. Butcher, Esq.—"The Rent Remedy—A Relic".

FOURTEENTH (Reported as Thirteenth Annual) MEETING:
Charleston, January 17-18, 1899.
President—D. C. Westenhaver.
Secretary—Jas. W. Ewing.
Treasurer—W. N. Miller.
Annual Address—Hon. Henry Stockbridge—"Some Problems of the Last Decade".
Address of President Westenhaver—"The Mission of a Bar Association, or Some Failures of the Self Governing Principle".
Papers—T. P. Jacobs, Esq.—"Remodeling the Judiciary".
—Melville D. Post, Esq.—"The Plan of the Other Wise Men".

FIFTEENTH (Reported as Fourteenth Annual) MEETING:
Martinsburg, January 4-5, 1900.
President—W. Mollohan.
Secretary—T. M. Garvin.
Treasurer—W. N. Miller.
(In the absence of Secretary Garvin, Oscar A. Campbell, Esq. acted as Secretary during the meeting.
In the absence of Treas. Miller, C. D. Merrick, Esq. acted as Treasurer during the meeting).
Annual Address—Hon. Armistead C. Gordon, of Staunton, Va.—"The Citizen and the Republic".
Address of President Mollohan—"This Association, its Work, Past and Prospective".
Papers—John W. Davis, Esq.—"The Causes of Crude Legislation".
—Jas. C. Frazer, Esq.—"The Foreign Policy of George Washington".
—St. Geo. T. Brooke, Esq.—"Some Absurdities in the Law of Divorce".
—C. D. Merrick, Esq.—"The West Virginia Judge".

SIXTEENTH (Reported as Sixteenth Annual) MEETING:
Parkersburg, Feb. 4-5, 1901.
President—L. J. Williams.
Secretary—John W. Davis.
Treasurer—W. N. Miller.
(Vice Pres. C. D. Merrick presided in the absence of Pres. Williams).
Annual Address—Hon. Henry Billings Brown—"John Marshall".
Address of President Williams (Read by Mr. Miller)—"Some Observations on the Legal Profession".
Papers—C. C. Higginbotham, Esq.—"Shall the State have a New Constitution"?
—Jas. F. Brown, Esq.—"Land Titles in West Virginia".

SEVENTEENTH ANNUAL MEETING—Clarksburg, Feb. 12-13, 1902.
President—John Bassel.
Secretary—John W. Davis.
Treasurer—W. N. Miller.
Annual Address—Hon. D. T. Watson of Pittsburg.
Address of President Bassel.
Papers—Z. T. Vinson, Esq.—"Railway Corporations & the Juries".
—John A. Campbell, Esq.—"The Proper Method of Nominating Candidates for Judicial Offices and the Salaries to be paid Judges".

EIGHTEENTH ANNUAL MEETING—Wheeling, Dec. 30-31, 1902.
President—George E. Price.
Secretary—John W. Davis.
Treasurer—W. N. Miller.
Annual Address—Hon. Hugh L. Bond, Jr,. of Baltimore—"Regulation of Industries by the National Government".
Address of President Price—"Compulsory Arbitration of Labor Disputes".
Papers—Edgar B. Stewart, Esq.—"The Torrens System".
—Alston G. Dayton, Esq.—"House Resolution No. 9316, to Revise and Codify the Judicial Laws of the United States".

—John J. Coniff, Esq.—"Injunctions; What Legislation if any is Needed in Regard to Them?"
—C. W. Dillon, Esq.—"Injunctions; What Legislation if any is Needed in Regard to Them?"

NINETEENTH ANNUAL MEETING—Parkersburg, Dec. 30-31, 1903.
President—C. Wood Dailey.
Secretary—Nelson C. Hubbard.
Treasurer—W. N. Miller.
Annual Address—Hon. Eugene C. Massie, of Richmond—"Land Transfers Ancient and Modern".
Address of President Dailey—"Recent Legislation and Decisions in West Virginia".
Papers—Clyde B. Johnson, Esq.—"A Method of Selecting Judges".
—Frank W. Nesbitt, Esq.—"The Time Sentence and the Reformatory System".
—C. M. Alderson, Esq.—"The Judge and how to Nominate Him".

TWENTIETH ANNUAL MEETING—Charleston, Dec. 29-30, 1904.
President—W. W. Brannon.
Secretary—Nelson C. Hubbard.
Treasurer—W. N. Miller.
Annual Address—Hon. Hannis Taylor—"International Arbitration".
Address of President Brannon—"The Doctrine of Stare Decicis as Understood and Misunderstood".

TWENTY-FIRST ANNUAL MEETING—Fairmont, Dec. 28-29, 1905.
President—John W. Mason.
Secretary—W. G. Peterkin.
Treasurer—W. N. Miller.
Annual Address—Hon. Wendell P. Stafford, of Washington, D. C.—"The Lawyer".
Address of President Mason—"West Virginia Election Laws".
Commemorative Address—Gen. Joseph Sprigg.
Papers—A. M. Poundstone, Esq.—"Proceedings in Causes before Judgment or Decree".
—Mason G. Ambler, Esq.—"A Plea for the Preservation of our Forrests, Streams and Fuels".
—W. P. Hubbard, Esq.—"A Retrospect".

TWENTY-SECOND ANNUAL MEETING—Elkins, Dec. 27-28, 1906.
President—John W. Davis.
Secretary—W. G. Peterkin.
Treasurer—W. N. Miller.
(In the absence of Treas. Miller, Chas. A. Kreps Esq. acted as Treasurer during the meeting).
Annual Address—Hon. A. J. Montague of Virginia—"The Third International Conference of American States".
Address of President Davis—"The Growth of the Commerce Clause".
Paper—John T. Cooper, Esq.—"Direct Nominating Primaries".

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